

A. J. W. Ross, Wonderland Theater, Los Angeles, Cal., favoring House bill 20595, to amend the copyright act of 1909; to the Committee on Patents.

By Mr. STEPHENS of Texas: Petition of W. C. Stephens, of Amarillo, Tex., for parcel-post legislation; to the Committee on the Post Office and Post Roads.

By Mr. STERLING: Petition of citizens of Le Roy, Ill., for enactment of House bill 16819, providing for free delivery of mail in small towns and cities; to the Committee on the Post Office and Post Roads.

By Mr. SULZER: Memorial of the International Reform Bureau, of Washington, D. C., designating as bills regarded as most important from the standpoint of public health and public morals: First, Kenyon-Sheppard bills (S. 4043 and H. R. 16214); second, Sims-Lea bill (H. R. 1620); third, Walter I. Smith bill, introduced in last Congress, against exhibition of prize-fight pictures; fourth, McCumber bill (S. 2310); fifth, bills regulating liquor traffic in the District of Columbia; sixth, no appropriation for any soldiers' home that maintains a bar; \$75,000 appropriation to enforce white-slave law; seventh, Iowa law suppressing brothels by injunction; eighth, Johnston Sunday bill for the District of Columbia; ninth, opium bills pending in House and Senate; tenth, reforms of judicial procedure; to the Committee on the Judiciary.

Also, memorial of board of managers of Seamen's Church of New York, favoring the passage of Senate bill 2117 now before the House of Representatives; to the Committee on Interstate and Foreign Commerce.

Also, petition of members of Cigar Makers' Joint Unions of Greater New York, favoring passage of the Reilly bill (H. R. 17253); to the Committee on Ways and Means.

By Mr. THISTLEWOOD: Petition of citizens of Grand Chain, Ill., favoring parcel post, restriction of immigration, and prohibition of gambling in farm products; to the Committee on the Post Office and Post Roads.

Also, petition of the citizens of Murphysboro, Ill., protesting against parcel-post legislation; to the Committee on the Post Office and Post Roads.

Also, petition of citizens of Grand Chain, Ill., favoring the Webb-Callaway bill, relating to bureau of markets (H. R. 19069 and 19132); to the Committee on Interstate and Foreign Commerce.

Also, petition of citizens of Chester, Ill., against parcel post; to the Committee on the Post Office and Post Roads.

Also, petition of citizens of twenty-fifth district of Illinois, favoring the building of one battleship in Government navy yard; to the Committee on Naval Affairs.

Also, petition of citizens of Chester, Randolph County, Ill., favoring the passage of House bill 16819, for experimental establishment of town mail-delivery system; to the Committee on the Post Office and Post Roads.

Also, petition of citizens of Dongola, Ill., protesting against parcel-post legislation; to the Committee on the Post Office and Post Roads.

By Mr. TILSON: Petition of Hillstown Grange, No. 87, Glastonbury, Conn., favoring a general parcel-post bill; to the Committee on the Post Office and Post Roads.

Also, petition of East Windsor (Conn.) Grange, No. 94, Patrons of Husbandry, favoring a parcel post; to the Committee on the Post Office and Post Roads.

By Mr. TUTTLE: Petition of Second Presbyterian Church, of Belvidere, N. J., for passage of Kenyon-Sheppard interstate liquor bill; to the Committee on the Judiciary.

By Mr. UTTER: Petitions of the Swedish Congregational Church of East Greenwich, R. I., and the Methodist Episcopal Church of Washington, R. I., for enactment of the Kenyon-Sheppard interstate liquor bill; to the Committee on the Judiciary.

Also, petition of the Rhode Island Business Men's Association, for the creation of an international commission to investigate the cost of living; to the Committee on Foreign Affairs.

Also, petition of the Rhode Island Business Men's Association, for enactment of House bill 17936; to the Committee on Coinage, Weights, and Measures.

By Mr. VREELAND: Petitions of Central Labor Council and Iron Molders' Union, Local No. 90, of Dunkirk, N. Y., for building one battleship in a Government navy yard; to the Committee on Naval Affairs.

Also, petition of the Free Methodist Church of Rushford, N. Y., in favor of House bill 16214; to the Committee on the Judiciary.

By Mr. WEDEMEYER: Papers to accompany bill for the relief of R. W. Tuffs; to the Committee on Invalid Pensions.

By Mr. WHITE: Petition of citizens of Roseville, Ohio, for regulation of express rates and classifications; to the Committee on Interstate and Foreign Commerce.

Also, petition of citizens of Roseville, Ohio, protesting against further extension of the parcel-post system; to the Committee on the Post Office and Post Roads.

By Mr. WICKLIFFE: Papers to accompany bill for the relief of estate of Sebastian U. D. Schlatter, deceased; to the Committee on War Claims.

By Mr. YOUNG of Kansas: Petition of citizens of Wallace County, Kans., asking for the enactment of a general parcel-post law; to the Committee on the Post Office and Post Roads.

Also, petition of citizens of Russell, Kans., protesting against the enactment of a parcel-post law; to the Committee on the Post Office and Post Roads.

SENATE.

WEDNESDAY, March 27, 1912.

(Continuation of legislative day of Monday, March 25, 1912.)

The Senate met, after the expiration of the recess, at 11 o'clock a. m. Wednesday, March 27, 1912.

The VICE PRESIDENT resumed the chair.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, announced that the House had agreed to the concurrent resolution (No. 14) of the Senate authorizing the Secretary of State to furnish a copy of the daily and bound CONGRESSIONAL RECORD in exchange for a copy of the Parliamentary Hansard, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed a concurrent resolution (No. 39) amending the concurrent resolution passed August 21, 1911, providing for the printing of the proceedings upon the unveiling of the statue of Baron von Steuben in Washington December 7, 1910, etc., in which it requested the concurrence of the Senate.

The message further announced that the House had passed a concurrent resolution (No. 43) providing for the printing of 100,000 copies of Public Health Bulletin No. 51, on the Cause and Prevention of Typhoid, etc., in which it requested the concurrence of the Senate.

SENATOR FROM WISCONSIN.

The Senate resumed the consideration of the report of the Committee on Privileges and Elections, directed by a resolution of the Senate to investigate certain charges against ISAAC STEPHENSON, a Senator from the State of Wisconsin.

Mr. HEYBURN. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Senator from Idaho suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Bacon	Cummins	Lorimer	Smith, Ga.
Bankhead	Curtis	McCumber	Smith, Md.
Borah	Dillingham	McLean	Smith, S. C.
Bourne	Fletcher	Martine, N. J.	Smoot
Brandegee	Foster	Myers	Stephenson
Bristow	Gamble	Nixon	Stone
Brown	Gardner	O'Gorman	Sutherland
Bryan	Gronna	Oliver	Thornton
Burnham	Heyburn	Overman	Townsend
Burton	Johnson, Me.	Page	Warren
Chamberlain	Johnston, Ala.	Perkins	Watson
Clapp	Jones	Poinexter	Wetmore
Clark, Wyo.	Kenyon	Pomerene	Williams
Crane	Kern	Rayner	Works
Culberson	Lea	Richardson	
Cullom	Lodge	Simmons	

Mr. BURNHAM. The senior Senator from New Hampshire [Mr. GALLINGER] is unavoidably absent.

Mr. LEA. The senior Senator from Tennessee [Mr. TAYLOR] is detained from the Senate by serious illness.

The VICE PRESIDENT. Sixty-two Senators have answered to the roll call. A quorum of the Senate is present.

Mr. POMERENE. Mr. President, it was an unpleasant duty the Senate imposed upon the subcommittee of the Committee on Privileges and Elections when its members were charged with the responsibility of hearing the testimony pertaining to the election of ISAAC STEPHENSON to the United States Senate and of ascertaining whether or not there were used or employed in that election "corrupt methods or practices."

For five weeks that committee heard the testimony, and for a number of weeks thereafter each member of that committee was engaged in the investigation of the testimony and the law before reaching his conclusion.

The Constitution imposes upon the Senate both legislative and judicial responsibilities. They are exclusively legislative, except in two instances: First, it is made the judge of the "elections, returns, and qualifications of its own members;" and, secondly, it is clothed with "the sole power of trying all impeachments." Sitting as legislators we aid in deciding what the law ought to be. Sitting as judges of the election of our Members or in impeachment cases it is our duty to determine what the facts are and what the law was at the time of the occurrence. In my humble judgment we have no more right to ignore the state of the law as it was during the campaign or to decide this case in the light of the law as it ought to have been than we have a right to change the facts in order to conform with the law as it was at the time of their occurrence (1908).

With this conception of the duty which was imposed upon us as members of that committee and as Members of the Senate in the trial of this cause, I feel that no matter how much I may condemn the practices which prevailed in the amount of money expended or the methods of expenditure or the failure to make complete and proper returns, we must decide this case in accordance with the law as we understand it to have been at the time of the election. That is the duty of the Senate sitting as a judge of the election and qualifications of its Members.

But, sitting as legislators and having investigated the manner in which this election was conducted and the methods which there prevailed, if acts were done or means adopted which were inimical to the public welfare, then it is our sworn duty to attempt, at least, to frame some law which will prevent their recurrence.

It is true we are not seated upon woolsocks or clothed with wig and gown, but the responsibilities which surround us are just the same as if we were sitting as the triers of a cause in a court of justice. If, sitting as a judge, this Senate were to determine an issue which was brought before it for trial in accordance with what we conceived the law ought to be instead of in accordance with the law as it obtained at the time of the occurrence of the facts, we would violate every principle of American jurisprudence and we would lie open to the charge of creating judge-made law to suit preconceived notions of the facts of the case.

When the fathers adopted our Federal Constitution and declared that the Senate should be the judge of the elections, returns, and qualifications of its Members, it meant—if I understand the English language—that we should sit as judges and in a judicial manner render righteous judgments under the facts as they appear and under the law as it then obtained, and in no other way.

Approaching the subject, therefore, imbued with this conception of the law, we ought not to be swayed from a judicial course in the trial of this issue. I see no inconsistency in judging this case in accordance with the law as it was and at the same time, by legislative acts, making the laws so stringent that the evils which have developed and come to light may never again be permitted to occur in the State of Wisconsin or elsewhere under the jurisdiction of the Stars and Stripes.

Everywhere we hear the cry against judge-made law. Are we, then, to ignore the precedents and practices and customs as they have prevailed at elections for a century and longer and ignore the state of the law as it was at the time this election occurred and decide this case in conformity with a new law, which is to set at naught all of the customs and practices which have heretofore obtained under almost the conceded sanctity of the law itself? Should this be done without declaring the changed conditions in the form of a statute? Must the Senate, sitting in a judicial capacity, decide this case in accordance with judge-made law to suit the changed points of view? Will we not be on safer ground if we adhere to the well-known rules of jurisprudence, and while sitting as judges decide the case in accordance with the law as it was, rather than to combine in this judicial proceeding the attributes both of a judge and a legislator, and now for the first time declare the law to be what it has not heretofore been?

I know that the practices which prevailed at this election and the extravagant use of money by four or five of the candidates at the primaries for the nomination as candidates for the United States Senate are universally and rightly condemned. But because I have come to the conclusion that under the law as I understand it and under the facts as they have been disclosed I do not see my way clear to vote to unseat the Senator from Wisconsin, I deny that it follows that I am in any sense of the word approving the methods which obtained during that election or that I have any sympathy whatever with the extravagant expenditure of vast sums of money. On the contrary, the committee in its report has severely criticized and condemned the methods which obtained during the senatorial primary election. The best thought of the day is a protest

against the use of money to influence either directly or indirectly the electorate. No word can be uttered against this extravagant use of money, however harsh it may be, that I will not and do not approve. But at the same time that I condemn the practice of using money excessively I shall not hesitate to place this responsibility in great part where it belongs, and that is here in the Halls of the Congress and in the halls of the General Assembly of the State of Wisconsin, where legislators who have been cognizant of these evil practices failed for so many years to enact laws whereby to prevent their continuance. Up to the time of Senator STEPHENSON's election there was not a word written in the statute books of the United States or of the Commonwealth of Wisconsin which forbade any of the acts of Senator STEPHENSON, occurring at or before the primary, disclosed in this hearing and which are now complained of by those who are in sympathy with the minority report submitted in this case.

And when I take this position I want to be frankly and fully understood. I do not mean to say that we could legally unseat a Member only where he had violated some statutory law. If in his efforts to secure the election he was guilty of conduct involving moral turpitude, or if he had resorted to acts which constituted bribery under the common law, or if he used other means for the purpose of corrupting voters, or if he was guilty either by himself or through his agents with his knowledge of preventing a free and untrammelled vote, then certainly he could be unseated. Such conduct would be corruption under the principles of the common law.

The Constitution, which makes the Senate the judge of the election, returns and qualifications of its Members, gives it both original and final jurisdiction. No proceeding in error or appeal lies from its edicts. Its decree is as immutable as the laws of the Medes and Persians, but because the Senate has the power to do a thing from which there can be no appeal, ought we not, therefore, to be the more guarded lest we may seem to exercise an arbitrary power, which may be in conflict with every principle of the law of judicial procedure?

STATEMENT OF THE FACTS.

The primary election to determine the choice of party candidates, including the candidates of the several parties for the United States Senate, was held September 1, 1908. Senator STEPHENSON did not determine to be a candidate at this primary until about 60 days before the date of the primary. He had no organization. Four or five other candidates had been actively in the field for months. There were 71 counties in the State and 2,200 election precincts. He first appointed a campaign committee, consisting of Messrs. Edmunds, Sackett, and Puelicher. To Mr. Puelicher he gave at first \$50,000. They agreed to take up the organization throughout the State. They were cautioned to keep strictly within the law.

The first act was to circulate nomination petitions throughout the State in order that Mr. STEPHENSON's name might be placed upon the ballot in conformity with the requirements of the Wisconsin primary-election law. For this purpose men were employed throughout the State, and they were paid for their services. The campaign was then begun in earnest. Senator STEPHENSON, through long years of business and political activity, was well known throughout the State. His friends were hunted up wherever they might be and urged to take an active part in his behalf. Headquarters were opened in Milwaukee, clerks were employed, polling lists were obtained throughout the State, and as these lists were obtained letters urging the Senator's claims were mailed, asking for support. Newspaper men were appealed to, advertisements were inserted, and some editorial support contracted for; lithographs and printed matter were circulated broadcast throughout the State; meetings were held in many places; men were sent over the State at large expense to do canvassing; and as these men went around they employed others in the several communities to spend time in advancing STEPHENSON's candidacy. Many of these men went to saloons, cigar stores, and every place where the voters might happen to congregate.

Money was expended, to what extent is not clear, but in certain localities a considerable amount for drinks, cigars, and refreshments. Or, in other words, to use the term which has been heretofore used in this debate, "Money was expended for treating." Managers were employed in each of the several counties of the State. In a few instances some of the men had charge of several counties. They organized for the primary election day. They employed men to attend the polls and hired conveyances for the purpose of bringing in the voters. These services, or at least a great part thereof, were paid for.

An examination of the record of the testimony, embracing more than 2,000 pages, will show the extent to which this campaign was conducted. There were a number of other candidates

for the Senatorship, and some of them were rich men. Senator STEPHENSON expended in this primary \$107,793.05, and he received 56,909 votes; S. A. Cook spent \$42,296.26, and he received 45,825 votes; William H. Hatton spent \$26,413, and he received 35,552 votes; and Ernest E. McGovern spent \$11,063.88, and he received 42,631 votes. The primary cost Senator STEPHENSON \$1.89 for every vote he received, S. A. Cook spent 88 cents for every vote he received, W. H. Hatton spent 85 cents for every vote he received, and Ernest E. McGovern spent 26 cents for every vote he received. That this was an extravagant expenditure of money and that the law ought not to have permitted it no one can or will deny.

PROCEEDINGS IN THE LEGISLATURE.

Charges were made at the hearing to the effect that in the proceedings in the legislature efforts were made to corrupt Assemblyman Leuch and Assemblyman Joseph Damochowski by offering money for their votes, and that Assemblymen Farrel, Ramsey, and Towne were kept out of the assembly on March 4, at the time of the final ballot. But an examination of the record will show that, however indiscreet may have been some of the utterances and conduct of these men, it can not be fairly contended that there was any substantial proof of any corruption whatsoever. And I do not understand that the Senators who are now favoring the minority report are making any contention that the proof, in so far as the alleged corrupt use of money in the general assembly is concerned, would justify the unseating of Senator STEPHENSON. I shall therefore confine my discussion to the corrupt practices and methods charged to have been used in connection with the primary.

THE WISCONSIN PRIMARY LAW.

The Wisconsin primary law, in substance, provides (ch. 451, Laws of 1903) as follows:

Party candidates for the office of United States Senator shall be nominated as other officers. (Subdivision 3 of sec. 2.)

Nomination papers for candidates for the office of United States Senator shall be filed in the office of the secretary of state. (Subdivision 1 of sec. 6.)

The person receiving the greatest number of votes at the primary as the candidate for the party for the office voted for shall be the candidate of that party for such office. (Subdivision 1 of sec. 10.)

And the secretary of state is required to publish in the official State paper a statement of the result of the candidates at the primary as soon as the same is certified to him.

It is contended by some that because the Federal Constitution provides that Senators shall be chosen by the legislature, and because Congress has the right to prescribe the time and the manner of holding elections for Senators, and that this power has been exercised by the Congress in the manner prescribed by sections 14 and 15 of the Revised Statutes of the United States, therefore the State has no authority to provide for a primary election governing the selection of party candidates for the position of United States Senator, and that hence any law on this subject is unconstitutional. I do not propose to enter at length into the discussion of this question, except to say that it seems to me it would be a strange position if we were to assume that the people of a sovereign State could not petition the members of the general assembly to elect a given man to the United States Senate. And if they have the right to petition, it would be equally strange to say that they might not do this by a primary as well as by any other known method. And if they have the right to petition, either by a primary or in any other way, it would be stranger still if they do not have the right to provide some method which would guarantee to the petitioners an honest expression of their views.

But it is not necessary for us to speculate upon this proposition, as the Supreme Court of the State of Wisconsin has already passed upon the constitutionality of this statute in the case of *State ex rel Van Alstine v. Frear* (142 Wis., 320). On page 349 Barnes, judge, in delivering the opinion of the majority of the court, says:

Our constitutions, State and National, guarantee the right of petition. Every citizen of the State has the right to petition the legislature asking that the candidate of his choice be elected United States Senator. Every citizen of a senatorial or assembly district has the right to petition his local representative to the same effect. The lawmaker is thus advised of public sentiment, a potent factor for him to consider in connection with other matters in arriving at a conclusion. Wherein does the primary nomination for United States Senator differ from the exercise of the right of petition? The legislative candidate is thereby informed of something that he has the right to know and of something obligatory, but should treat it as advisory. Moral suasion may be a perfectly legitimate agency to employ even in the election of a United States Senator. That the electors in the exercise of their guaranteed right of petition might do in substance and effect what they now do at the primaries hardly admits of controversy. The framers of the Constitution could not have supposed that there was any impropriety in the people advising their representatives of how they desired them to vote on the Senatorship, else an exception would have been incorporated in the clause guaranteeing the right of petition restricting its application to matters other than the election of United States Senators.

We concede that the result of this primary is not binding upon any member of the legislature. But it is advisory—in

other words, persuasive. And I am therefore clearly of the opinion that if the provisions of this primary law have been violated, and corrupt methods at the primaries were shown, it would affect the result of the election by the general assembly, and the Senate would be justified in taking cognizance of that fact and unseating any Member who was thus delinquent.

EXPENDITURES.

It will be impossible to review at length the testimony in this case. I can only hope to give a bird's-eye view of the record, and, without trespassing too long upon the time of the Senate, I shall hope to present it in such a way as to make my position clear. The disbursements, so far as they are disclosed in the record, may be divided into the following classes:

First, moneys paid out to persons employed by Senator STEPHENSON, or in his behalf, to circulate nomination papers in order to get the number of signatures required by the Wisconsin statutes before his name could be placed upon the ticket.

Second, moneys paid out—

(a) To newspapers for political advertising.

(b) For editorial support.

(c) For lithographs, campaign material, postage, telephone, telegraph, and express charges.

(d) Office expenses, including rent, clerk hire, and assistants.

Third, payment for services of speakers, hall rent, music, and for men devoting their time and efforts in cultivating STEPHENSON sentiment throughout the State.

Fourth, moneys expended for workers at the polls and for conveyances and services in getting out the voters.

Fifth, for drinks and cigars.

Sixth, money given to C. C. Wellensgard, L. L. Bancroft, and Thomas Reynolds, who were candidates for the legislature, to be used by them in the interest of Senator STEPHENSON.

Seventh, money paid to the game warden, John W. Stone, for use in the Senator's campaign.

Eighth, \$2,000 contributed by Senator STEPHENSON to the State campaign committee for general election purposes.

Ninth, expenses incurred during the session of the general assembly in opening and maintaining headquarters at Madison from the beginning of the session until after March 4, 1909, and for hotel bills and traveling expenses.

No part of the contribution to the general campaign committee or the expenses incident to the headquarters during the session of the general assembly were ever reported to the secretary of state.

The Wisconsin law makes it bribery to offer a voter anything to induce him to sign a nomination paper. Men were employed to circulate these petitions and paid for so doing, but there is no evidence that anyone who signed the petitions was paid or offered anything for signing them.

ELECTION LAWS.

I wish to lay emphasis upon the facts that at the time of Senator STEPHENSON's election there was no Federal statute determining the class of expenditures which might be permitted; and there was no statute, either Federal or State, limiting the amount of expenditures which might be incurred or made.

The State of Wisconsin did have some statutory regulations on the subject.

Paragraph 1 of section 4478 declared it to be bribery for any person—

directly or indirectly, by himself or by any other person on his behalf, to give, lend, or agree to give or lend, or offer, promise, or promise to procure or endeavor to procure any money or valuable consideration to or for any voter, to or for any person on behalf of any voter, or to or for any person in order to induce any voter to vote or refrain from voting, or do any such act as aforesaid, corruptly, on account of such voter having voted or refrained from voting at any election.

Paragraph 2 of this section prevents the giving or procuring, or agreeing to give or procure, or offer, promise, or endeavor to procure any office, place of employment, public or private, to or for any voter, or to or for any person on behalf of any voter, or to or for any other person in order to induce such voter to vote or refrain from voting, or do any such act as aforesaid, corruptly, on account of any voter having voted or refrained from voting.

Paragraph 3 prevents any person from making any such gift, loan, offer, promise, procurement, or agreement as aforesaid to or for any person, in order to induce such person to procure or endeavor to procure the election of any person to a public office or the vote of any voter at any election.

Paragraph 4 provides:

Every person who shall, upon or in consequence of any such gift, loan, offer, promise, procurement, or agreement, procure or engage, promise or endeavor to procure the election of any person to a public office or the vote of any voter at any election—

shall be guilty of an offense. Evidently the words "such gift" refer to the kind of giving which is described in the preceding paragraph.

And paragraph 5 reads:

Every person who shall advance or pay or cause to be paid any money to or for the use of any other person with the intent that such money or any part thereof shall be expended in bribery at any election, or who shall knowingly pay or cause to be paid any money, wholly or in part, expended in bribery at any election, shall be guilty of bribery.

There is, however, one section of the Wisconsin statute which I wish to call specially to the attention of the Senate. At the time provision was made for primary elections in the State of Wisconsin a statute was passed under which the criminal penalties applying to a caucus and election were made applicable to primary elections.

That is section 298, and reads:

Every person who, by bribery or corrupt or unlawful means, prevents or attempts to prevent any voter from attending or voting at any caucus mentioned in this act, or who shall give or offer to give any valuable thing or bribe to any officer, inspector, or delegate whose office is created by this act, or who shall give or offer to give any valuable thing or bribe to any elector as a consideration for some act to be done in relation to such caucus or convention * * * shall be deemed guilty of a misdemeanor.

By a subsequent statute this section was made applicable to primaries.

None of the expenditures disclosed by the record in this case can come within the inhibitions of these sections, in my judgment, unless it be a violation of the language of the last section:

Or who shall give or offer to give any valuable thing or bribe to any elector as a consideration for some act to be done in relation to such caucus or convention.

If the words "to give any valuable thing" are to receive a comprehensive and literal interpretation, and are to prohibit the giving and offering "of any valuable thing," "as a consideration for some act to be done," it would not have been necessary to write into the statute "or bribe," because the former expression would include the latter. It is a rule of construction that—

words of a general import in a statute are limited by words of restricted import immediately following and relating to the same subject. (36 Cyc., 1119, and Nance v. Southern R. R. Co., 149 N. C., 366.)

Lawyers will recognize it to be an established rule, to quote the language of the court in that opinion, that—

In interpreting a statute, where the language is of doubtful meaning, the court will reject an interpretation which would make the statute harsh, oppressive, inequitable, and unduly restrictive of primary private rights.

This statute, in my judgment, clearly refers to the giving of anything of value in the nature of a bribe. The purpose of the statute was, evidently, to prohibit the corrupt giving. And this must be the construction which is placed upon it by the authorities in the State of Wisconsin, because with all the publicity that has been given to this case no attempt has been made to begin any criminal prosecution for any of the acts which were done during or since the primary election.

Again, if a literal interpretation is to be given to the words:

Any valuable thing * * * as a consideration for some act to be done—

whether morally corrupt or incorrupt, would the legislature require, as it does, the candidate to convict himself by filing an account? This is a criminal statute, and it must be strictly construed against the State. And when a defendant is charged with its violation every doubt as to the meaning of the statute must be resolved in his favor.

A careful reading of these sections of the statute clearly indicates, in my judgment, that it is "the corrupt giving" which constitutes the offense, and if the statute fails to define what acts are corrupt, then we are obliged to look to the common law in order to ascertain what is or what is not corrupt; and surely if there is any decision anywhere in the States, except where it is specifically forbidden by the statute, that makes it a bribery to employ a man at the polls, or to hire conveyances for the purpose of getting out the vote, or for the purpose of paying advertising, or to incur or pay any of the expenditures to which I have referred, it has not yet been called to the Senate's attention by any of those who have spoken upon the subject, and if any of the Senators have been able to find any such decision, their diligence has surpassed mine.

The proof shows the kind of expenditures which were incurred and paid. The proof shows that the Senator had instructed his managers to keep within the law. The proof does not show that any of this money was expended corruptly. And it seems to me that a careful, dispassionate reading of the record will fail to show that any of this money was in fact expended for a corrupt purpose. I do not say that some of it may not have been expended for a corrupt purpose. I am willing to concede that some of it was probably so expended, but I do say that there is no proof which will justify a fair and unbiased mind in saying that by a preponderance of the weight of the testimony that corruption has been shown. I do not say that

where there was a contest such as this must have been some of the agents and representatives of the Senator may not have paid out some of this money corruptly. But we are not to judge of this case by what they may or may not have done. We are to judge of it by what was proven to have been done or left undone. The gist of the offense is not the giving of money or things of value, but it is the giving of the money or things of value, corruptly.

After an analysis of this testimony, under the statutes in the State of Wisconsin, or even under the common law, let me ask, Is it a violation of the statute to pay out money for political advertising in the newspapers, or for editorial support, or for lithographs, or for campaign material, or for telegraphing, or for telephoning, or for express charges, or for office expenses, including rent, or for the hire of clerks and assistants in the office, or men engaged in the canvass, or for the hiring of speakers or halls, or for rent, or music at political meetings, or for men to devote their time and efforts in cultivating sentiment throughout the State, or to pay workers at the polls? Is it an offense to employ conveyances and the services of men in getting out the voters? If so, refer me to the statute which defines the offense, or refer me to the principles of the common law in Wisconsin or elsewhere in the United States which makes such acts a corrupt practice. Is it an offense under the statutes of the State of Wisconsin to expend money for drinks and cigars given in a social way during the campaign? If so, point me to the statute or the rule of the common law which proscribes it. With all the vast amount of money which has been expended in this way in National, State, county, township, and municipal campaigns, tell me where any of these acts have been declared to be penal or to be a corrupt practice, unless there is some statute upon the subject.

But the distinguished Senators from Iowa and Kansas tell us that it is demoralizing, that it is corrupting, that its influence is bad upon the public morals, and to all of this I give assent; but is it not just a little bit strange, if these acts are a violation of the law of the land, that neither of the able Senators, with all of their diligence and study of this proposition, has been able to give to us a single reference to a single authority in the United States? They refer us to the declarations made by some Canadian and English judges, but it will be noted that in each of the cases to which they refer and where these acts were held to be penal and a corrupt practice it was because of the statutes which existed in the various Provinces of Canada or in the British Empire. I concede that the judges in those cases, in what are obiter dicta, tell us that bribery at the common law is an offense and will be sufficient to set aside an election. But they tell us that where treating is made an offense it must be to such an extent that it interferes with the freedom of elections. Nowhere do they say to us that the giving of a social drink or a social cigar shall be regarded as an act of corruption unless it is for the very purpose of changing or corrupting the vote.

I think I have shown that under the state of the law as it existed during this primary election no one of the several classes of expenditures could be regarded as an infraction of the law. The testimony shows that the practices which obtained in that election in the way of hiring employees, workers at the polls, and conveyances to get out the vote, or in the methods of advertising and electioneering, generally had obtained in that State for years. It is a matter of common knowledge that the same customs and practices prevail in most of the States. And it seems to me that if these are to be cut off, and for the most part they ought to be prohibited, it should be done by some statutory regulation. But we are told that if this kind of campaigning had been done in a reasonable way it would not have been a violation of the law; that the vice comes from the extent to which it was carried on. Let us examine this position.

The population of the States varies from 81,875 in Nevada to 9,113,279 in New York. If we are to say that the expenditure of \$107,000 in the State of Wisconsin is an excessive amount, what shall be regarded as an excessive amount in the State of Nevada or in the State of New York? Where is the dividing line between what is reasonable and what is unreasonable, between what shall be considered incorrupt and what shall be regarded as corrupt? Where is the twilight zone, if there be any? Shall the amount of expenditures be limited to so much per State or to so much per voter? Shall it be limited to a given amount in a rural community and an entirely different amount in a municipality? Shall it be lawful to employ two men at one poll and unlawful to employ five at another? Shall it be a crime to have five teams at one poll and perfectly legitimate to have two at another? Is the law so uncertain a device that we must determine the legality or illegality by some particular

standards which may be in the minds of men, and as different as there are different minds considering it?

One hundred dollars may be expended corruptly and \$100,000 might be expended in a large State and not violate any law, either common or statutory. If a candidate were to offer a voter so much as a cigar in consideration that he vote for him, that would be corrupt and in violation of not only the statutes of the State of Wisconsin but of the common law as well. If he were to expend the \$100,000 by employing speakers for public meetings, or to pay men who were to go throughout the State and create sentiment in his favor, or to employ men to go to the polls for the purpose of getting out the votes and hiring the necessary conveyances and for advertising, it would violate no principle of the common law, and as I construe the statute law of Wisconsin, it would not be violated.

It does not do to say that because a vast sum of money was expended therefore the vote or any part of it was purchased. If the contest was close between two given candidates, money might be expended corruptly, whether in small or in large sums. The amount which was expended is a circumstance to be taken into consideration in connection with all of the facts of the case and properly weighed, and from the whole testimony a conclusion must be reached and not from the one fact taken and construed by itself.

The common law consists of the principles laid down in adjudicated cases, or by recognized text writers, or it may be the customs and practices which are prevailing in a given community, which will control in the absence of any statutory regulation. And now the record shows that the practice of employing men and conveyances at the polls and of advertising and of treating prevailed in this State, and had prevailed there for years. The statute did not reach it, if I have properly construed it. Are these things now to be held for the first time a violation of the law without the intervention of any legislative action, either on the part of the general assembly of the State or of the Congress of the United States? I recognize it to be true that the authorities which the distinguished Senator from Iowa has referred to are to the effect that if the treating has been to the extent of interfering with a free election, then we ought to hold that improper methods had been used. But where is the testimony in this record or anywhere else which indicates that the treating had gone to such an extent?

The General Assembly of the State of Wisconsin must have recognized the fact that the bribery statutes which we have discussed, and which were in force at the time of the primary elections, were not sufficient to meet the situation presented in that primary, and they did not sufficiently curtail the expenditures either as to the kind or as to the amount. It is clear that in attempting to determine what a statute means we may look at the legislative history of the subject matter treated of. The general assembly in 1911 defined clearly the only disbursements which thereafter could be justified in an election.

Sections 94-96 (p. 885) provides:

1. No candidate shall make any disbursement for political purposes except:

(1) For his own personal hotel and traveling expenses and for postage, telegraph, and telephone expenses.

(2) For payments which he may make to the State pursuant to law.

(3) For contributions to his duly registered personal campaign committee.

(4) For contributions to his party committee.

(5) For the purposes enumerated in sections 94-97 of the statutes, when such candidate has no personal campaign committee, but not otherwise.

2. After the primary no candidate for election to the United States Senate shall make any disbursement in behalf of his candidacy, except contributions to his party committee, for his own actual necessary personal traveling expenses, and for postage, telegraph, and telephone expenses, and for payments which he may make to the State pursuant to law.

The next section, without taking the time of the Senate to read it, provides that the committee, or the candidate himself where he does not have a committee, may contract for advertisements in newspapers, periodicals, or magazines, but these, under a later section, must be marked as "paid advertisements"; he may employ and pay public speakers; and he may have men to travel throughout the State to circulate his campaign literature; or he may pay the traveling expenses of the members of his committee.

Clearly, now, since this act went into effect it would be illegal to employ men to attend the polls, or to hire conveyances to get out the vote, or to employ the editorial support of a newspaper, or for advertising which was not marked in the newspaper as a "paid advertisement." But shall we treat this matter now as if this statute had been in force, in 1908, at the time of the primary?

ARGUMENT OF THE JUNIOR SENATOR FROM IOWA.

The junior Senator from Iowa has, with a great deal of erudition, discussed the state of the common law as it existed

in England, and quotes to some extent from Lord Coke's Institutes and from authorities on English and Canadian cases to establish his position that violations of the common law may be such as to invalidate an election in this country. It was not necessary to go to the archives of Great Britain or to go back to the time of the Roman Republic, as one of the Senators did, to show the evil effects of corrupt practices. But I was interested in the matter in the hope that some of the Senators might give us some American law upon this subject.

With the general principle for which the Senator contends I have no quarrel. But an examination of his authorities clearly shows that in order to invalidate an election the expenditures must be in the nature of a bribe—that is to say, a corrupt purchasing of votes—or it must be such as to interfere with the freedom of elections, or it must be an illegal expenditure of money, or an illegal practice. And I concede this proposition. But it is a long step from the act of hiring a man to devote his time and energies to the canvass in behalf of his principal to bribing a voter. It is a long step from the employment of a man to work at the polls and to bring in voters to the bribing or purchasing a voter. It is a long step from the employment of canvassers to go out through the State and create sentiment in favor of a candidate to an interference with the freedom of elections. It is a long step from the giving of a social drink or a cigar to the treating to such an extent as to interfere with the liberty of elections. The distance between the two classes of cases is measured by the distance between legal and illegal acts.

The Senator refers to the case of *Sisson's petition against Ardagh*, respondent, *Hodgin's Election Cases*, page 50, in which it was held that the hiring of a railway train to convey voters was a paying of the traveling expenses of the voters going to and from the election. But the court held this to be a corrupt practice, not under the common law, but under the provisions of section 71 of the Thirty-second Victoria. Was there any statute in Wisconsin at that time containing the same provisions as the Victoria statute?

Again, the Senator refers to the cases of *Cameron*, petitioner, *v. McDougall*, *Hodgin's Cases*, page 376, where the court held treating was not per se a corrupt act, except when made so by statute, but the intent of the party may make it so, and the intent must be judged by all the circumstances by which it is attended. But the acts in that case, without going into them in detail, were held not to be a corrupt practice. Was there any statute in Wisconsin at that time or any Federal statute or any principle of the common law which prevented treating? Of course, if the treating was done as a consideration for the votes that would be a corrupt practice; and if it were shown to exist, it would invalidate this election. But the testimony does not show that any of the treating which was done was done for this purpose. It was done in a social way, while they were attempting to create Stephenson sentiment. Are we to give a criminal tinge to everything that was done in this campaign? We must if the facts justify it. But we must not if the facts do not justify it.

Again, the Senator refers to the case of *Cameron v. McLennon*, *Hodgin's Election Cases*, 584, on the subject of treating. The court said:

If the treating were to such an extent as to amount to bribery, and the undue influence was of a character to affect the whole election, without referring to any statutory provisions, it would by the law of Parliament, we apprehend, influence the result.

Now, if I may take the time of the Senate to read just a paragraph, on this subject, from this same work, page 384, speaking of treating:

The general practice which prevails here amongst classes of persons, many of whom are voters, of drinking in a friendly way when they meet, would require strong evidence of a very profuse expenditure of money in drinking to induce a judge to say that it was corruptly done, so as to make it bribery or come within the meaning of "treating" as a corrupt practice at the common law.

But my friend will have to go from the realm of fact to the region of imagination before he can come to the conclusion that the treating went to the extent that it interfered with the freedom of the election in any of the 2,200 precincts of the State of Wisconsin.

Again he quotes:

The first principle of parliamentary law, as applicable to elections, is that they must be free. If treating and undue influence were carried to an extent to render the election not free, then the election would be void.

But this begs the whole question. It must appear in the light of this authority that, before the Senator from Wisconsin could be held to be guilty of bribery, the treating was carried on to such an extent as to amount to bribery and undue influence. I submit that a fair investigation of the record will fail to show that such was the case. We may infer fraud or cor-

rupt practices from acts proven, but it is a general and fundamental principle of law that where a given act is susceptible of two constructions—the one lawful and the other unlawful—it is both the duty of the jury and of the judge to give it the sanction of law rather than to hold it to be a violation of the law.

Again, he quotes from Cushing on the Law of Legislative Assemblies, in part as follows:

Freedom of election is violated by external violence, by which the electors are constrained, or by bribery, by which their will is corrupted; and in all cases where the electors are prevented in either of these ways from the free exercise of their rights the election will be void without reference to the number of votes thereby affected.

We concede that there must be freedom of elections; that there must not be violence; that there must not be bribery or corruption; but we insist that there is no proof that any of these acts existed.

The Senator then quotes extensively from Sheppard on Elections, and Rogers on Elections. Without intending to discuss these authorities in extenso, it is sufficient for my purpose to say that bribery is an offense at the common law as well as by statute. No criminal prosecutions were begun under the English common law, where its provisions were violated, but if there was in fact bribery it would vitiate the election. I do not deny these propositions. But where, in all this record of testimony, is there a word showing that there was corruption, or that there was bribery?

Again, the Senator quotes from Sissen's petition against Ardagh in Hodgin's Election Cases, page 58. This was a prosecution for the violation of a statute. It was charged that Mr. Lauder has intrusted \$700 to his agent, Perry; that Lauder should have supervised the expenditures. The court held that there was no evidence that the expenditures were excessive, and then suggests that if it had been \$7,000 the argument of corrupt practices might have been reasonable. But the court adds:

The facts do not suggest to my mind any idea that Mr. Lauder intended his money to be employed illegally.

And this is quite significant when we bear in mind that the record shows that repeatedly Senator STEPHENSON had cautioned his managers to keep within the law.

And now, while the distinguished Senator from Iowa has been somewhat prolific in his citation of English and Canadian authorities to establish a general principle, and when we remember that the practices, of employing men to aid in creating sentiment in behalf of candidates, of hiring of assistants at the polls, of advertising in the public prints, and of treating in a social way, have prevailed in this country for almost time out of mind, is it not a little strange that, with all his diligence, he has not been able to refer us to a single American case in any National, State, county, or municipal election which will sustain his position that the practices which prevailed in Wisconsin are a violation of any known law?

SENATOR BRISTOW'S ARGUMENT.

The junior Senator from Kansas, judging from the very able speech which he delivered in the Senate on this subject in favor of unseating the Senator from Wisconsin, has shown the diligence which is so characteristic of him in searching records and collecting testimony. I do not believe that any Senator will be able to go through the record and present a stronger brief of the facts against the validity of Senator STEPHENSON'S title to his seat than that to which we listened for two days while the distinguished Senator from Kansas was arguing the case.

I shall not attempt to retrace his steps in detail, but in order that I may make my position clear it is my desire to call attention to the salient features of his argument.

Briefly stated, Senator STEPHENSON expended \$107,793.05. For the most part it was placed in the control of his campaign managers, Messrs. Edmunds, Sackett, and Puelicher. The account of receipts and disbursements by Puelicher, who was a banker and was acting as treasurer, differed materially from the account of any other customer of the bank. Sackett kept a memorandum of the disbursements on cards. Later he made transcripts from the cards and destroyed the cards, but there is no evidence tending to show that Mr. STEPHENSON knew of the methods of either of these gentlemen. Reynolds, Bancroft, and Wellensgard were candidates for the general assembly. None of them lived in Senator STEPHENSON'S district. Under the statute of that State he was forbidden to give any money or thing of value in procuring or aiding to procure the nomination or election of any person to the general assembly.

The testimony shows that Senator STEPHENSON and his committee had placed in the hands of these three men certain funds, not to be used in securing their nomination, but to be used by them for the purpose of aiding Senator STEPHENSON in his own campaign. These men had all been members of the general

assembly; previously were Senator STEPHENSON'S friends; had voted for him when he was a candidate for election to the United States Senate in 1907; and they say that they used none of this money for their own campaign. I know that this testimony is open to the suspicion that these men may have used this money for their own interest or that Senator STEPHENSON may have given it for that particular purpose. But who can fairly examine this record and say that the preponderance of the proof indicates that it was used in any unlawful way? To place the construction upon it that it was used for this unlawful purpose is not only to deny the words of all of the witnesses themselves, but it is to give no effect to the spirit of their former friendship. Must we presume fraud to exist where none is proven? Are we to conclude that because wicked men do unlawful things and attempt to conceal them, therefore these legislators are precluded from denying wrongdoing?

I realize that the Senator's construction of this evidence may be right, but the probabilities, in my judgment, are all against his contention when we apply to it the rules by which testimony is usually weighed. Are these men not to be believed? I think I speak for every Member who sat in these hearings when I say that there was no evidence which came to us to indicate that these three representatives were not average men, with average character, and with average reputation for truth, veracity, and honesty.

SUPPORT OF NEWSPAPERS.

The Senator from Kansas devoted a good deal of time to an analysis of the testimony bearing upon the payment for advertising and editorial support in certain newspapers. His position is that an arrangement for advertising or newspaper support—was a bribe, a corrupt act, and just as heinous as if it had been the purchase of the vote of a member of the legislature.

but the General Assembly of Wisconsin by a formal act has since provided for paid advertisements. Briefly stated, the record shows that Mr. Dee—

Mr. BRISTOW. Mr. President—

The PRESIDING OFFICER (Mr. Jones in the chair). Does the Senator from Ohio yield to the Senator from Kansas?

Mr. POMERENE. I do.

Mr. BRISTOW. Suppose the Legislature of Wisconsin had provided a man might buy a member of the legislature, would that make it justifiable?

Mr. POMERENE. Absolutely not.

Mr. BRISTOW. Then suppose it provided he could buy the editorial support of a newspaper, does the Senator say it follows that it makes it a legitimate transaction?

Mr. POMERENE. Mr. President, I do not quite understand the distinguished Senator's code of political morals. If that is an offense, I am afraid nearly every candidate he has supported for any national office has been guilty of a violation of the moral code.

Mr. BRISTOW. That is, the Senator thinks that nearly every candidate goes out and buys the support of newspapers.

Mr. POMERENE. I do not.

Mr. BRISTOW. I understood the Senator—

Mr. POMERENE. I did not.

Mr. BRISTOW. I understood it to be at least an inference from the Senator's remarks.

Mr. POMERENE. I mean to say that many of the candidates do go out and pay for political advertising, and that has prevailed to such an extent that while I think the practice ought to be abolished, yet it is within the province of the legislatures or of Congress to regulate these things.

Mr. BRISTOW. The Senator now says political advertising. The quotation he read from the remarks of the Senator from Kansas referred to the purchase of the editorial support of newspapers.

Mr. POMERENE. I think, Mr. President, with all due respect to the Senator from Kansas, that he has misconstrued this testimony, and I will refer to the facts, if the Senator will permit me, as I go along. It was not a buying of editorial support.

Briefly stated, the record shows that Mr. Dee entered into a contract for newspaper advertising for which he received a consideration of \$150.

Mr. LEA. Mr. President—

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Tennessee?

Mr. POMERENE. I do.

Mr. LEA. Do I understand the Senator from Ohio to state that there was no purchase of editorial support in that campaign by Senator STEPHENSON?

Mr. POMERENE. None by Senator STEPHENSON.

Mr. LEA. Or by his managers?

Mr. POMERENE. I do not say—

Mr. LEA. Managers acting for him?

Mr. POMERENE. I do recall now one man who was a friend of Senator STEPHENSON who conducted a paper and had conducted it editorially in his behalf, and he was seen by one of his managers, and they provided for some advertising space and urged him to be a little more active in his columns.

Mr. LEA. How does the Senator characterize the transaction of Mr. Dee, who was the editor of the Chippewa Herald? Mr. Dee was formerly the county manager of that county for Mr. Hatton. He received a contract for \$170 worth of advertising, without any limitation as to the amount of advertising or the amount of space to be used, and thereafter he discontinued his support of Mr. Hatton. It is true that he said he had mentally determined two weeks prior to that not to support Mr. Hatton, but the first evidence we have of it is subsequent to the contract for this so-called advertising. Does not the Senator regard that as the purchase of editorial support?

Mr. POMERENE. If I remember the facts in that behalf, I do not think the Senator has fully or fairly stated them. I may be wrong, but my recollection is that this witness testified that something had appeared in the columns of his paper in support of some other candidate without his knowledge. That was some time before the contract was made. But to continue with Mr. Dee's testimony. The record shows that he was to use such material as he saw fit and in the way that he saw fit, and was to use as much space as he could for that amount of money; that he later received \$200, and he, at least, says that a part of this was used for the purpose of employing workers at the polls. If it comes to the question as to whether or not the purchase of advertising space or even of editorial support is a matter of good taste and good political morals, the question must be answered in the negative. And if the question is as to whether or not such purchasing constitutes a violation of the law, statutory or common, it must also be answered in the negative.

Mr. KERN. Mr. President—

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Indiana?

Mr. POMERENE. I do.

Mr. KERN. I desire to inquire as to whether this witness Mr. Dee did not expressly declare that the advertising referred to was editorial matter, and that nothing in the form of advertising, using the word in the usual acceptance of the term, appears at all?

Mr. POMERENE. My recollection is at variance with the Senator's on that subject.

Mr. KERN. I will ask the Senator, further, whether the fact in a nutshell about it is not about as follows: That on a day certain he supported another candidate in his paper; that on the day following he was given a sum of money; and that a week thereafter he was supporting STEPHENSON. I ask the Senator whether or not that is not the chronological order of Mr. Dee's action.

Mr. POMERENE. Possibly when I answered the Senator from Tennessee [Mr. LEA] I had not in mind the facts relating to Mr. Dee. In any event one of the witnesses testified that something had appeared in his paper a week or two before inadvertently and when he was away. But that does not answer the point which I made.

Mr. LEA. Mr. President—

The PRESIDING OFFICER. Does the Senator from Ohio yield further to the Senator from Tennessee?

Mr. POMERENE. I do.

Mr. LEA. Was it not the fact that Editor Dee was the manager for Hatton of that particular county a short time prior to the visit of the Stephenson manager, with whom he made a contract for the so-called advertising?

Mr. POMERENE. I do not recall that fact. I have no memory on the subject at this moment. But I concede that it is not a matter of good morals to buy editorial support. There may be a difference of taste. My judgment is that it is bad taste to do it. I think that it ought to be prevented; but it seems to me that if there is any law preventing this class of work I am sure that the very able Senator from Indiana will be able to point it out.

Mr. KERN. Mr. President—

The PRESIDING OFFICER. Does the Senator from Ohio yield further to the Senator from Indiana?

Mr. POMERENE. I do.

Mr. KERN. Do I understand the Senator's attitude to be that if there is no law forbidding an immoral thing, therefore it is justifiable?

Mr. POMERENE. I have labored in vain if I have not made myself clear that the seat of any Senator may be vacated where there are corrupt practices, whether they be corrupt under the

principles of the statutory law or under the well-known principles of the common law.

Mr. HEYBURN. Mr. President—

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Idaho?

Mr. POMERENE. I do.

Mr. HEYBURN. I should like to suggest merely that the question here is not whether the seat shall be vacated. The question here is as to whether a man was elected.

Mr. POMERENE. I have inaptly used the wrong word, but I apply it either to the proposition of vacating his seat or to the determination of the question as to whether or not his election to this seat was by corrupt or improper practices. I do not believe that there is any Federal statute or any State statute or any principle of the common law which makes it a corrupt practice to employ newspaper support, either by way of editorial or advertisement. That it should be regulated by law I concede. It has not been regarded as an offense of any kind, notwithstanding the opinion of the Senator from Kansas. That it is not a bribe or a corrupt practice clearly appears from the fact that the Legislature of the State of Wisconsin in the spring of 1911 (Wisconsin Laws, p. 886) passed a law permitting disbursements "for campaign advertising in newspapers, periodicals, or magazines as provided in this act," but the statute requires that before the newspaper can receive payment therefor it must be designated as "paid advertisement." (Wisconsin Session Laws, 1911, p. 890.) That expenditures of this kind should be regulated and controlled by law I do not doubt; that they were not so controlled by either statute or the common law is equally clear. Must we, then, because we think this practice has been abused, judge of this case as if there was a law on the statute books at the time of the election which has been violated?

Mr. LEA. Mr. President—

The VICE PRESIDENT. Does the Senator from Ohio yield to the Senator from Tennessee?

Mr. POMERENE. I do.

Mr. LEA. I do not desire to interrupt the Senator, but he characterized my comment on the testimony of Dee as unfair. I merely desire to show that my comment on the testimony of Mr. Dee was fair. On page 1224 of the record Senator POMERENE asked Mr. Dee the following questions:

Prior to that time had you supported any of the other candidates for the senatorship?

Mr. DEE. No, sir.

Senator POMERENE. None of them, editorially?

Mr. DEE. No, sir.

Senator POMERENE. Mr. Hatton or Mr. McGovern?

Mr. DEE. I was originally appointed Hatton's manager for Chippewa County, but I withdrew from that, and notified them very clearly and without equivocation that I would withdraw from Mr. Hatton's support.

Senator POMERENE. What time did you withdraw?

Mr. DEE. It was some time in July, if I remember correctly.

Senator POMERENE. How long before you made your arrangement with Mr. Ring?

Mr. DEE. It must have been a couple of weeks anyway.

The point I desired to make was that one of the editors of the papers who received this so-called advertising from Senator STEPHENSON's manager was originally a Hatton supporter; that is, a supporter of another candidate.

Mr. POMERENE. Mr. President, in order that we may be able to give full force to the testimony of the witness quoted, it would only be fair to have the whole of it in the Record; and it seems to me, assuming the naked facts to be just as they have been read—and I acquit the Senator from any intentional misrepresentation of the record; he certainly would not do that—simply because of the fact that an editor may have favored one man at one stage of the campaign and another man at another stage of the campaign, are we justified in coming to the conclusion that he did so because of a corrupt motive?

C. C. WAYLAND'S TESTIMONY.

The junior Senator from Kansas discusses at considerable length the testimony of C. C. Wayland, who was one of the active organizers in behalf of Senator STEPHENSON. In substance, he testifies that he selected men who were for Senator STEPHENSON from among the Belgians, Germans, Hollanders, Methodists, Catholics, and Lutherans, paid them from \$2 to \$5 per day for their services in helping to get out the vote, furnished cigars to men in the country, paid for drinks and cigars in the saloons, and finally was requested by Mr. Edmunds to discontinue treating. He paid for stenographers, canvassers, livery hire for the primaries and trips before the primaries, treats, etc., during the entire campaign \$1,199.34, and this included probably \$300 for his own services.

The Senator then jumps to the conclusion that this was a corrupt and improper use of money for influencing men in election. If so, how corrupt? What principle of law had been violated? How was it improper? By what standards, legal or illegal,

moral or immoral? What method of expenditure was adopted here which has not prevailed in every national, State, county, township, and municipal campaign? Should these expenditures be forbidden? Yes. Were they forbidden at that time? No. Why were they not forbidden by some law, either legislative or congressional? This has not been a new practice. It has obtained for years.

My regret is twofold: First, that this method of campaigning has ever obtained in this country; and, secondly, that the legislative authorities have not seen fit heretofore to have placed a check upon it.

After discussing at some length the testimony of Mr. Wayland, the junior Senator from Kansas says:

It is easily seen that Mr. Wayland hired men who were susceptible to influence.

Mr. Edmonds and other witnesses before the committee said that this method of campaigning had obtained for years in that State. Mr. Wayland had simply resorted to the methods which were then in vogue. He states that he first inquired as to whether or not these men were favorable to STEPHENSON, and then employed them. By what rule of fairness in the weighing of a man's words have we the right to come to the conclusion that these men who were thus employed were susceptible to the influence of the money which they may have received? I recognize the fact that it is a dangerous practice, and that to permit the use of money in this way is to leave the door open to the commission of fraud. But so long as it is not proven that fraud was committed, either by direct or indirect testimony, or by a reasonable inference from the facts proven, it is not our right to say that because there was a possibility of fraud, therefore fraud was committed. It does not do to say that because money was given to pay a man for his effort and for his time that it, in fact, was used under this cloak for the purpose of buying votes, unless the proof justifies it.

Mr. CUMMINS. Mr. President—

The VICE PRESIDENT. Does the Senator from Ohio yield to the Senator from Iowa?

Mr. POMERENE. I do.

Mr. CUMMINS. I did not quite understand the application of the remark made by the Senator from Ohio a few moments ago, and in order to get his view upon the question I recall to his attention the somewhat famous Caldwell case. Caldwell paid Carney \$15,000 for withdrawing as a candidate for the Senate of the United States before the Legislature of Kansas. There was no law of Kansas against a payment of that sort, nor is there now, as I understand; there was no law of Congress against that payment then, nor is there now. Does the Senator from Ohio believe that, therefore, the election which followed was an honest election?

Mr. POMERENE. Undoubtedly it was not.

Mr. CUMMINS. Why was it otherwise, if there was no law either of the State or of Congress, and even no law now upon a transaction of that sort? Where did the Senate get its right—its moral right—to unseat Mr. Caldwell, as it would have unseated him if he had not resigned?

Mr. POMERENE. Mr. President, I thought I had labored very industriously to explain my position to the Senate to be this: That there could be a corrupt practice by virtue of a statute, State or National, or there might be a corrupt practice under the well-known principles of the common law. The contract which was made in the case to which the distinguished Senator from Iowa refers was a contract by which, for a consideration of money, Carney agreed to withdraw from the race, and, as I remember it, to deliver his votes, or at least his influence, to Caldwell.

Mr. CUMMINS. The Senator from Ohio is wrong about the last. That was simply an inference.

Mr. POMERENE. Assuming that I am wrong about that, he at least attempted to deliver those votes. It was a contract clearly in violation of every principle of political morality, and for that reason the Senate would have fallen short of its duty if it had failed to unseat the Member.

Mr. CUMMINS. Does the Senator think that that transaction violated the rules of political morality more than would an agreement between a candidate and the editor of a newspaper that, for a consideration, the editor of the newspaper would support the candidate editorially?

Mr. POMERENE. Mr. President, the question is a very interesting one as a matter of ethics, but in the Kansas case, to which the Senator has referred, the principles of the common law, based upon precedent, made the transaction illegal. If the Senator can refer to any principle either of statutory or of common law which makes it a corrupt practice to buy or employ editorial space in a paper, then his position may be well taken.

Mr. CUMMINS. Mr. President, I do not remember any instance like the Caldwell case that ever arose under the common law or that was ever adjudged under the common law. It was immoral because it shocked and violated the civilized, decent sense of that time. I believe that the purchase of an editorial opinion contravenes and shocks the political and moral sense of this time as completely as did the transaction in Kansas violate the ideas of that time. I want, however, to make one distinction. I recognize that a candidate for an office, if he desires to do so, can advertise in a newspaper; I think that is perfectly legitimate; but it must appear in the newspaper as an advertisement, and not as the expression of the opinion of the editor of the newspaper that the particular candidate should be elected, when in fact it is not the opinion of the editor that the candidate should be elected. I am not entering upon a discussion of the facts. I was simply wanting to be put right with regard to the law which had been applied by the Senator from Ohio.

Mr. POMERENE. The Senator and I have no difference of opinion as to what the law ought to be. As these practices are permitted to grow up, they ought to be changed, and they ought to be changed by the legislative bodies of the country. For instance, to use another illustration, it is against the principles of the common law that there should be rebating. Would the Senator indict a man for rebating, convict him, and assess a fine against him before there was any law on the subject on the statute books?

Mr. CUMMINS. It is well known, I suppose, that in our country an indictment is based upon statute law, at least that is the case so far as my own State is concerned; but I say at once, in order to make the instance parallel with the one that we are now considering, that if a contract were entered into providing for a rebate which would be a discrimination among the patrons of a railway company, no title could be conferred on anyone through a contract of that sort any more than title to a seat in this body can be acquired through the violation of the accepted rules of conduct which we endeavor to apply in the affairs of life.

Mr. POMERENE. The contract would certainly be void, there can be no question about that; but at the same time, could the principle be extended to the point where a Member should be unseated when he has done nothing which is a violation of any of these principles, as I conceive them to be? It may be that the Senator and I differ as to what the real facts are in this case. I think that perhaps whatever difference of opinion there is between us arises out of the difference in the construction of the testimony rather than a difference in the construction of the law as it is or of the law as it ought to be.

SOL L. PERRIN'S TESTIMONY.

The junior Senator from Kansas discussed at great length the testimony of Sol L. Perrin. He was a lawyer and had been given \$5,000 with which to take charge of the campaign in a number of counties in his section of the State. He attempts to account for this money by saying, in substance, that he gave it to a number of men who were to use it in their several localities in employing men to talk in behalf of Senator STEPHENSON, and to create sentiment in favor of his election, and for the purpose of employing workers at the polls in the different precincts and counties under its charge. And while, as I recall, he gives the names of the men whom he had in charge of the several counties, he says he can not give the names of the workers he employed, and his account of the administration of this fund is very unsatisfactory. There is no evidence, as I now recall, that Senator STEPHENSON had anything to do with his employment except as he did it through Mr. Edmonds. Because he does not give a satisfactory account of what he did with the \$5,000 which was turned over to him, the inference is drawn by the Senator from Kansas that this was a corruption fund contributed by the Senator from Wisconsin and that it was used for the purchase of votes or, in any event, for the corruption of the electorate.

Senator STEPHENSON has said repeatedly that when he started out in the organization of this campaign he cautioned his managers to keep within the law. He was an old man, of great business cares. He gave little, if any, attention to the campaign, and in his failure to do so he was at fault. But, in my judgment, instead of charging that this money was corruptly employed in the corruption of the electorate of the State of Wisconsin, we would come as near to the truth if we were to say that a greater part of this money never left the hands of those who received it. Other men similarly failed to account for the funds which they had received, but in the explanation of the expenditures of these funds it seems to me that we can, with greater propriety and with more logic, come to the conclusion that much of the money was not expended at all by the men who

received it, than to say that the money was corruptly used for the purpose of debauching the voters of the State. The failure of some of the men to properly account for their disbursements is referable rather to the fact that they did not disburse it than to the fact that it was disbursed illegally by Senator STEPHENSON or his authorized agents.

Mr. BRISTOW. Mr. President—

The VICE PRESIDENT. Does the Senator from Ohio yield to the Senator from Kansas?

Mr. POMERENE. I yield.

Mr. BRISTOW. I should like to inquire of the Senator from Ohio what, in his opinion, the money was given to these men for? Take the game warden, Mr. Stone; what was he given \$2,500 for?

Mr. POMERENE. Mr. President, I will not take the time of the Senate to go into the full details, but will content myself with saying this: The Senator from Missouri [Mr. REED], in discussing that testimony, quoted from the record a single sentence, which was to the effect that it was given to him for "his assistance in the campaign." It is unfair to take a few words from the context and place a construction upon the conduct of the parties involved without giving due weight to the whole testimony upon that subject. The record clearly shows that whatever money was given to Stone was for the purpose of organization. He distributed a large part of it among his deputies and some of it he failed to account for, and even went to the extent of perjuring himself before the legislative committee in order to cover up the fact that he had not used the money, but kept part of it for himself. Mr. Stone testified and others testified that this money was given to him to be used in organization throughout the State, but specific instructions were not given, as I remember.

Mr. BRISTOW. And no accounting was asked for.

Mr. POMERENE. I think that is true.

Mr. BRISTOW. What does the Senator understand was meant by the "organization" which Mr. Stone would perfect?

Mr. POMERENE. The record shows that what was meant by Mr. Edmonds and others who had charge of this campaign was that men should go out and talk in behalf of Mr. STEPHENSON, should circulate his literature, should employ men at the polls, should hire conveyances, and that the money was to be expended in those and kindred ways.

Mr. BRISTOW. Suppose Mr. Stone concluded from these general instructions that this \$2,500 was given him for the purpose of inducing him to go out and talk for STEPHENSON. That \$2,500 was expended, then, in order to secure the influence of Stone, presumably because he would not have been for him unless he had received the \$2,500. Does the Senator think that is a legitimate political method?

Mr. POMERENE. I do not think the Senator is justified in drawing that inference from the testimony, and when I speak of the testimony I mean the whole testimony upon that subject. I do not think that the money was a quid pro quo for his support.

Mr. KENYON. Mr. President—

The PRESIDING OFFICER (Mr. POINDEXTER in the chair). Does the Senator from Ohio yield to the Senator from Iowa?

Mr. POMERENE. I do.

Mr. KENYON. I simply wanted to inquire if Mr. Stone was not told to keep within the law?

Mr. POMERENE. Mr. President, I do not think there is any such testimony in the record. I recognize the fact that in this record Senator STEPHENSON several times said that he had so cautioned his managers. I suspect that the fact that he gave that caution has had great influence with the Senator from Iowa in making up his mind as to what position he should take in this matter. If Mr. STEPHENSON had said nothing upon the subject, I suspect that he would have been condemned with the same force.

This is one of the circumstances connected with the case. If Senator STEPHENSON had been shown to be guilty of the improper practices which are charged to his account, perhaps we could give but little force to these words. But we must remember that here was a man four-score years of age and more, who at least did not have the physical ability to attend to the details of this campaign. He called in a few of his friends, and they discussed the methods of the campaign, and as a parting word he said, "Now, boys, keep within the law." I do not think it is very much to his discredit to have said that, nor do I believe it to be an indicium of criminality.

Mr. SUTHERLAND. Mr. President—

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Utah?

Mr. POMERENE. I do.

Mr. SUTHERLAND. The Senator from Iowa [Mr. KENYON] asked the Senator from Ohio whether or not Mr. STEPHENSON

had directed Stone to keep within the law. It seems to have been assumed all the way through this debate that Mr. STEPHENSON paid this \$2,500, or directed it to be paid, to Mr. Stone. In truth and in fact there is no such evidence. The testimony is to the contrary—that Mr. STEPHENSON neither directed nor authorized it to be paid. So there was no occasion for his directing Mr. Stone to keep within the law—that is, there was no occasion for his personally making that statement to Mr. Stone.

Mr. KENYON. Mr. STEPHENSON had full knowledge of the matter, did he not?

Mr. SUTHERLAND. Full knowledge of what?

Mr. KENYON. Of the payment of the \$2,500.

Mr. SUTHERLAND. There is no evidence in the record that he knew anything about it until it was all over.

Mr. KENYON. Does the Senator state that no part of it, as shown in this record, was paid by Mr. STEPHENSON?

Mr. SUTHERLAND. I say positively that there is no evidence that any part of the \$2,500 was paid by Mr. STEPHENSON.

Mr. KENYON. The Senator may be correct.

Mr. SUTHERLAND. Nor is there any evidence that it was directed to be paid by him, although the contrary has been stated and is assumed in the minority views.

Mr. POMERENE. It was paid by his managers.

Mr. SUTHERLAND. It was paid by Mr. Edmonds.

Mr. POMERENE. Mr. President, much note has been made of the fact that an account of the expenditures was not filed, as required by the statutes of the State of Wisconsin. The account which was filed certainly did not comply with the law, but the testimony shows that the managers of the campaign kept certain accounts; that they filed a statement of the expenditures in conformity with what had been the practice in that State and in conformity with a form which had been used by a judge of the supreme court, among other prominent officials; and that before the statement was filed it was submitted to Senator STEPHENSON's lawyers. They approved it, and whatever moral delinquency there may be in not complying with the strict letter of the law is theirs, and not his, though he would be amenable to the criminal penalty.

Mr. President, I have already detained the Senate too long, and I must conclude. All will agree that the disbursements in this campaign were extravagant, and they ought to have been prohibited. They were of the same kind and character as have been made for almost time of out mind in campaigns, local, State, and National. In my judgment there is no evidence of any corruption, either by Senator STEPHENSON himself, or by others with his sanction or authority, direct or indirect. Congress and the State legislature have permitted this kind of campaigning to continue without any attempt to correct it by law, and now public policy requires that new laws shall be enacted; but the same public policy requires that the Senator from Wisconsin shall be tried in accordance with the law as it was at the time of the acts complained of. Are we to wreak vengeance, after generations of this method of campaigning, upon the head of one man, simply because the legislative bodies of the State and of the Nation have failed to enact much-needed legislation? I can not do it by my vote, under the proof as I see it, and under the law as I understand it.

The PRESIDING OFFICER (Mr. POINDEXTER in the chair). The question is upon the motion of the Senator from Idaho [Mr. HEYBURN].

Mr. HEYBURN. There is a substitute pending, offered by the Senator from California [Mr. WORKS].

Mr. WORKS. Mr. President—

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from California?

Mr. HEYBURN. I do.

Mr. WORKS. The substitute was not offered.

Mr. HEYBURN. I find it on my desk; that is all.

Mr. WORKS. It was simply presented with a view of offering it at a later time; but, in view of the vote already taken, I will not press it.

Mr. HEYBURN. Of course it will have to be offered and voted upon before the main question.

Mr. BRANDEGEE. The Senator from California says he will not offer it.

Mr. HEYBURN. I understand that it is not to be considered, then.

Mr. President, certain Senators, whom I do not now see in the Chamber, have indicated their intention to address the Senate upon this motion. I think it is hardly fair to them to foreclose them from the debate in which they expected to participate. I notice on one of the desks, at least, some evidence of the intention of the occupant of that desk to make some remarks. I would inquire whether those Senators desire to address the Senate before a vote is taken.

Mr. NEWLANDS. Mr. President—

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Nevada?

Mr. HEYBURN. I do.

Mr. NEWLANDS. I suggest to the Senator that if he will call attention to the fact that a quorum is not present, that will summon those Senators here.

Mr. HEYBURN. The Senator has already done that. The mere whisper of that in the Chamber requires a roll call.

Mr. CUMMINS. Mr. President—

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Iowa?

Mr. HEYBURN. I do not have to yield, because the suggestion is made of the absence of a quorum.

Mr. CUMMINS. I hoped that suggestion would not be made—

Mr. HEYBURN. It can not be withdrawn.

Mr. CUMMINS. Because possibly I can take up the time as well with a few remarks as by a call of the roll.

Mr. HEYBURN. It is one of those unfortunate things that sometimes happens that when any Senator suggests the absence of a quorum the roll must be called, and it can not be withdrawn.

The PRESIDING OFFICER. The Chair does not understand that the Senator from Nevada suggested the absence of a quorum.

Mr. HEYBURN. He did suggest it.

Mr. NEWLANDS. I suggested that the Senator from Idaho should suggest it.

Mr. HEYBURN. That is only the form of language in which attention was called to the fact.

Mr. BRANDEGEE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum is suggested. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Bacon	Curtis	McCumber	Simmons
Borah	Dillingham	McLean	Smith, Ga.
Bourne	du Pont	Martine, N. J.	Smith, Md.
Bradley	Fletcher	Myers	Smith, S. C.
Brandegee	Foster	Nixon	Smoot
Briggs	Gamble	O'Gorman	Stephenson
Bristow	Gardner	Overman	Stone
Brown	Gronna	Page	Sutherland
Bryan	Heyburn	Percy	Townsend
Burnham	Johnson, Me.	Perkins	Warren
Burton	Johnston, Ala.	Poinexter	Watson
Chamberlain	Kenyon	Pomerene	Wetmore
Chilton	Lea	Rayner	Williams
Clapp	Lippitt	Richardson	Works
Crane	Lodge	Root	
Cummins	Lorimer	Shively	

Mr. TOWNSEND. The senior Senator from Michigan [Mr. SMITH] was appointed by the Senate a member of the committee to attend the funeral of the late Gen. Bingham, and he has not yet returned to the Senate.

Mr. BURNHAM. I wish to state that my colleague [Mr. GALLINGER] is necessarily absent.

Mr. STONE. My colleague [Mr. REED] is absent on important business, and is paired, I understand, with the senior Senator from Michigan [Mr. SMITH].

The PRESIDING OFFICER. Upon the roll call, 62 Senators having answered to their names, a quorum is present.

Mr. CUMMINS. Mr. President, if there were nothing more than a question of fact before the Senate, I would content myself with recording my conviction upon the controversy by my vote and I would not detain the Senate by observations upon the case. There is, however, more than a question of fact at issue. Repeating, with slight paraphrase, the most serious and the most impressive utterance I ever heard in debate, I fear that the Senate is about to commit a grave mistake. I fear that the Senate is about to inflict all the injury that it can inflict upon the modern policy of nominating candidates for the Senate of the United States at a primary or popular election.

Some Senators here who have joined in the majority report openly and frankly avow that purpose. Other Senators, it seems to me, will lend the weight of their influence to the same result unintentionally and unconsciously. If the Senate declares that a candidate for the Senate of the United States can corrupt the primary election in which he is seeking a nomination and still hold a good title to his seat, then primary elections for the nominations of candidates for the Senate will become dangerous instrumentalities instead of an honest expression of the public will. This is one of the issues we must now determine.

When we say that the corruption of a primary has no effect upon the particular Senator elected by a legislature in obedience to the primary expression, or when we say that in order to establish the corruption of the primary we must prove that

enough individual voters were corrupted in order to change the results, then we have simply turned the power of money free, untrammelled, and unrestricted upon the electorate of the United States.

It is, as I view it, the gravest question that has yet appeared at the bar of the Senate. The Senate has never before been compelled to decide the questions which now confront it. A case of this character has never before arisen in this body. It presents to us in another form the new movement among the people of the United States—the new method of nominating candidates for office. It is for us to say whether the same safeguards are required to be thrown around the new plan that we have so long recognized as applicable to the old methods.

The senior Senator from Idaho [Mr. HEYBURN], who is in charge of this measure or this resolution, believes, and I have no doubt he believes honestly, that a primary election for the selection of a candidate for the Senate of the United States is not only unconstitutional but is vicious. He intends to draw as many Senators after him as he can in order to disparage and discredit throughout the United States the policy of allowing the voters of a political party to select their candidates for the Senate of the United States, and he intends to do it by having the Senate declare, if he can, that no matter how completely and comprehensively the primary election may be corrupted, nevertheless the title conferred upon the man who is elected by the legislature of the State is without a stain.

I think it is due to the country that those Senators who may inferentially stand with the senior Senator from Idaho upon this most extraordinary proposition shall be heard before we close this debate, for I am curious to know how many men there are in this country who espouse a doctrine so full of menace, so destructive to peace and good order.

Mr. HEYBURN. Mr. President—

Mr. CUMMINS. I yield to the Senator.

Mr. HEYBURN. I do not desire to interrupt the Senator unnecessarily. I would apply the Senator's last remark to the proposition whether a majority or a minority of the people should direct the rule of this Government. I regard the Senator's position with reference to a direct primary, the manner in which he demands that it shall be recognized and that the rule that shall be applied to it, as I would regard a proposition to provide for the manner in which a prize fight should be conducted, and I give it no more dignity. I regard the direct primary as a violation of the law, as a violation of the fundamental principles of our Government, as an attempt to anticipate something that we have not yet concluded to do. I will be perfectly candid about it.

Mr. CUMMINS. I compliment the Senator from Idaho upon his candor and his frankness. I understood his sentiments before, and I think it is greatly to his credit that he has the courage to avow them. But I should like to know how many other Senators there are here who have joined in the majority report who hold similar views with regard to a primary election for the selection of a candidate for the Senate. This is one of the most extraordinary occasions which will ever confront the Senate of the United States. I believe that this day will be long remembered by not only Senators but by the people throughout the country, if it is understood that a vote in harmony with the senior Senator from Idaho means what he declares his vote will mean upon the resolution.

Mr. OVERMAN. Mr. President—

Mr. CUMMINS. I yield to the Senator from North Carolina. Mr. OVERMAN. The Senator has stated that the motion now pending before the Senate is on the adoption of the report of the committee, which was written by the senior Senator from Idaho. Does the Senator contend that if this motion carries it is an indorsement by the Senate of the views of the senior Senator from Idaho?

Mr. CUMMINS. I do not want, Mr. President, to do anybody an injustice. The sentiments which I have just mentioned and which the senior Senator from Idaho has avowed are contained in the views of the senior Senator from Idaho.

Mr. HEYBURN. But not in the report.

Mr. CUMMINS. And not in the report; and they have been reiterated many times from his place on the floor. I do not know how many of the Senators who joined with the senior Senator from Idaho in the majority report hold like views. It may be inferred that all of them do except the Senator from Ohio [Mr. POMERENE] and the Senator from Utah [Mr. SUTHERLAND], who have taken care to distinguish themselves from the main body of the majority by insisting that they are not in harmony with the principle which has thus been announced by the chairman of the subcommittee.

Mr. LEA. Mr. President—

Mr. CUMMINS. I yield to the Senator from Tennessee.

Mr. LEA. In reference to the inquiry of the Senator from North Carolina [Mr. OVERMAN], we were under the impression that the question before the Senate is on the substitute offered by the Senator from California [Mr. WORKS].

Mr. HEYBURN. That has been withdrawn.

Mr. WORKS. It has not been withdrawn; it was not formally offered.

Mr. LEA. It has been withdrawn?

Mr. OVERMAN. The question before the Senate is the motion of the Senator from Idaho [Mr. HEYBURN]:

I move that the report of the committee be adopted and that ISAAC STEPHENSON be declared entitled to a seat as Senator from the State of Wisconsin in the United States Senate.

The pending motion is a motion that the report of the committee be adopted.

Mr. HEYBURN. That has nothing at all to do with the expression of the individual views by members of the committee.

Mr. CUMMINS. However, I think the burden of proof is upon the remaining members of the majority to deliver themselves from this doctrine which is espoused and announced by the senior Senator from Idaho or to make it known that they are in harmony with it, because the senior Senator from Idaho was the chairman of the subcommittee, he made the report to the full committee, and the full committee adopted the report which he made for the exculpation of the Senator from Wisconsin. Then the senior Senator from Idaho proceeded to express his views more at length upon the subject, and I must infer, until it is otherwise declared, that his fellow members of the committee, with the exception of the Senator from Ohio [Mr. POMERENE] and the Senator from Utah [Mr. SUTHERLAND] hold like views; and if they do not they owe it, as it seems to me, to their country as well as to the Senate to make themselves understood with respect to so vital a proposition.

It rather extends my remarks to be compelled to distinguish between the two great Senators from Idaho with every sentence. Here sits the junior Senator from Idaho [Mr. BORAH], the author of one of the most powerful and impressive speeches I ever heard, delivered yesterday, with which I concur not only in conclusion but in every detail. Here sits the senior Senator from Idaho [Mr. HEYBURN], with whose views upon this question I differ in every detail. I think I may shorten my discussion by now saying that when I refer to the Senator from Idaho as I go forward I mean the senior Senator from Idaho. That will avoid the necessity of making this discrimination in every sentence.

The Senator from Idaho is a courageous man. I agree to that; and I like courage even when it is misdirected, as I believe it is in this instance. But if the Senator from Idaho were as logical as he is brave he would not have presented the resolution which is now before the Senate, and for which it is manifest he intends to vote. I can demonstrate that so that his comprehensive mind will not only appreciate it and understand it but will admit it, I think.

The Senator from Idaho holds that a primary election for the nomination of a party candidate for Senator of the United States is unconstitutional. Not only so, but he holds that it is vicious, and by that I assume that he means at least immoral as tested by our duty prescribed in the Constitution. The Senator from Idaho knows that Mr. STEPHENSON was elected by the Legislature of Wisconsin because—and only because—he was selected for that office, as he declares, in an unconstitutional and vicious way. What influenced the members of the legislature to vote for the sitting Member? The influence was the act of the voters of the Republican Party in Wisconsin, and the Senator from Idaho says this act was a vicious act. I suppose he would apply every adjective that his fertile vocabulary could suggest in order to describe the act. If that is true, then Mr. STEPHENSON has no title to the seat he holds, because he was elected by men who were improperly and viciously influenced to do the thing which they did.

Mr. HEYBURN. Mr. President, I hope the Senator will not imagine that I stand here with my mind filled with vicious adjectives—

Mr. CUMMINS. No.

Mr. HEYBURN. To be used for the purpose of describing these men. I do not. For whom should the Legislature of Wisconsin have voted for United States Senator? The Senator is familiar with the record; he knows the proceeding. For whom should the Republican members of the legislature in Wisconsin have voted, and for whom would the Senator have voted had he been in the legislature? It was their duty to vote for somebody. Now, for whom should they have voted?

Mr. CUMMINS. Mr. President, that gives me the very opportunity that I feared would not come to express my view of that matter. If I had been a member of the Legislature of Wisconsin,

and if I had believed that the primary election was honestly conducted—had not been corrupted—I would have voted for Mr. STEPHENSON.

Mr. HEYBURN. Mr. President—

Mr. CUMMINS. Now, wait a moment. Do not interrupt me until I have completely finished.

Mr. HEYBURN. All right.

Mr. CUMMINS. Because I will give the Senator from Idaho something to say about that as a text in a moment. If the Senator from Idaho had been a member of the Legislature of Wisconsin, and if he had believed then, as he appears to believe now, that a primary election for that purpose is unconstitutional, and is not only unconstitutional, but is vicious—

Mr. HEYBURN. Say without warrant of law.

Mr. CUMMINS. The Senator used the word unconstitutional. I am simply following his phraseology. If he had believed that the law was unconstitutional and the law was wrong and vicious and if he had voted for any candidate on account of that law, would his vote have been an honest or a dishonest vote?

Mr. HEYBURN. That is a very vain imagination. I would have been influenced in no degree whatever by this straw vote which you call a primary.

Mr. CUMMINS. Well—

Mr. HEYBURN. Nor had I been a candidate would I have wanted the support of any man who would be governed or influenced by it; and my record will bear me out in that statement.

Mr. CUMMINS. I am not familiar with the Senator's record in that respect, and it is not material to me anyhow. I do not care anything about his record in so far as that goes, because I know him to be unflinching and unrelenting in opposition to a primary law.

Mr. HEYBURN. Permit me to say to the Senator from Iowa he has heard the last of my interruptions. A discourteous and sarcastic reply always closes my interruption of any Senator.

Mr. CUMMINS. Very well. I can not insist upon his interruption but I can at once disclaim any intention of discourtesy. On the other hand, I tried to be to the last degree courteous. I said that the record of the Senator from Idaho is not material here, and I was proceeding to say that his opposition to the primary law is well known. It has been expressed upon every appropriate occasion. I am only trying to bring him to the end which his own reasoning must inevitably carry him, because if he had been a member of the Legislature of Wisconsin and had voted for a man because he had been selected in a primary for that reason alone, necessarily his vote would have been a dishonest if not a corrupt vote.

Mr. President, the attack upon the primary laws of the United States that is manifest in this case necessarily leads us into a little broader field of inquiry, for I regard that as the great vital issue here. More than half of the States of the Union, I think nearly two-thirds of the States of the Union, have provided in some form or other, some of them efficiently, some of them inefficiently, for the nomination of candidates for the Senate of the United States through primary elections. I believe no man who looks in an unprejudiced way over the political field can doubt that the movement which is already powerful is growing with the passing of every day, and no man can doubt that within a comparatively short while every Senator who holds a seat in this body will have been selected by his party as its candidate in a popular election, and will have been elected by the legislature as a consequence of such selection, unless we are so fortunate as to witness the adoption of the proposed amendment to the Constitution of the country which will provide for the direct election of Senators by all the people.

Mr. WILLIAMS. Even then, if the Senator will pardon me, that would not stop the primary, because then each party would probably hold primaries to select its candidate before the general election.

Mr. CUMMINS. Precisely. I was about to add that when this power is given to the voters of the country, and I hope it will be given before very long, then just so long as political parties exist they will present their candidates to the electorate as a whole through the medium of primary popular elections.

If that be true, Senators, what will you say to a proposition which in effect declares that the primaries at which the selection is made can be corrupted and yet the legislature following the direction of the primary can give a valid title to a seat in this body? To me the proposition is so abhorrent not only to good morals as we have known good morals for years and years but so abhorrent to the tendency toward a closer tie between the voters and Senators of the United States that I confess it is hard to be complacent when it is known that a vote is about to be had from which the people of this country can infer, at least, that the Senate looks upon the corruption of the

primary as a remote and not a proximate cause of the election by the legislature, a Senate that looks upon the corruption of the primary as so far removed from its membership and the laws under which the election of its members takes place as to be beyond the examination and the consideration of the Senate in determining whether the seat has been honestly or dishonestly won.

Mr. President, I hasten to say that the Senator from Utah [Mr. SUTHERLAND] and the Senator from Ohio [Mr. POMERENE] have dissented from that proposition, and I am very glad that they have dissented from it; but I am compelled to say that they "keep the word of promise to the ear and break it to our hope."

If this minority of the majority assenting to the doctrine, which it seems to me must command the assent of all thoughtful men, yet require of it an application which must make it ineffectual and useless, we reach finally the same unfortunate conclusion. I do not differentiate very much between the argument presented by the Senator from New York and that presented by the Senator from Ohio. I assume—I ought not to assume, but it is probable—that the Senator from Utah will pursue the same general thought.

What is it? It is that while the corruption of the primary may invalidate a seat in the Senate conferred by the legislature which follows the direction of the primary, we must prove that enough of the primary voters were corrupted to reduce the vote of the successful candidate below the plurality or the majority, as the case may be, required by the law to make a nomination; and, further, must mark and distinguish these voters. Senators, if we hold to that doctrine, it will be just as fatal to the purity of the primary, just as fatal to the efficiency of the popular selection of candidates, as though we were to hold the doctrine presented by the Senator from Idaho [Mr. HENRY], namely, that the corruption of the primary is immaterial. In the very nature of things we can not follow, no human tribunal will ever be able to follow, the money to the individual voter sufficiently to answer the test which is proposed by the Senator from New York [Mr. ROOR]. I do not believe that it is the law.

The Senator from Ohio says that we ought to judge this case according to the law as it was when the primary election under examination took place. I agree with him. I do not know just what he means by "the law," however, and I will endeavor to elucidate my own opinions upon that subject. We are not greatly concerned with the law of Wisconsin, when the Constitution imposes upon us the duty and confers upon us the power of judging of the election of a Senator of the United States. We are to discharge that duty and to exercise the power independently of any law of the State of Wisconsin, or of any other State whose affairs may come here under consideration. If the State of Wisconsin had no law respecting the conduct of the primary elections, our duty would be precisely the same. If the State of Wisconsin had a law which, in our judgment, did not raise sufficiently high the standard of honesty, purity, and morality, still our duty would be the same. We are to judge of the election of Mr. STEPHENSON not according to the law of Wisconsin. I do not believe that Wisconsin can impose upon the Senate of the United States limitations of its power, conferred by the Constitution of the United States, nor do I think the State of Wisconsin can create standards for determining our duty that are not in harmony with our own opinions upon those subjects.

We are controlled, first, in a measure, by the precedents of the Senate, for while we are not bound by these former declarations, yet in order to insure that stability which is so essential in the administration of all human affairs, we ought to give great weight to decisions of former Senators with respect to such things. But above and beyond the precedents of the Senate, we are bound by our civilized opinions with respect to honesty, fairness, and decency. If we are not to be controlled by these standards, we have none to use in such a case as this. Therefore, it seems to me, that we are here to judge of the primary election in Wisconsin and to bring it to the test of our opinions and convictions with respect to honesty, morality, and decency as they are applied to political affairs.

Mr. President, I recognize two divisions of this subject. There are a great many things which candidates may do or may not do according to their taste, according to their sense of propriety, but which, if done, are not in contravention of the accepted rules of political morality and political honesty. I would be very far from challenging the title to a seat of any Senator, because in the conduct of his campaign he did not measure up to standards which some one man or a few men might erect to test the validity of his methods.

But there is another division. There are other things which everybody will agree are dishonest, are wrong, are corrupt, and when we find these things in the title of one who claims a

seat in this body, then we ought to so declare, even though there be no written inhibition or prohibition to be found anywhere in the precedents, in the statutes of the United States, or in the statutes of the State. I do not think that my distinguished friend from Utah will disagree with me so far. I think he will concede, in a general way, the soundness of the doctrine that I have stated.

How, then, must we test these things that have been established by the evidence? If we are bound to prove that 9,000 voters were corrupted, that 9,000 men received some immoral consideration or unlawful consideration for their votes, if we are bound to point out and designate the 9,000 men who were thus corrupted or changed from the course which they otherwise would have pursued, then this challenge of the title of Mr. STEPHENSON to his seat must fail, because this evidence does not show the names of 9,000 men who were corrupted; it does not show the processes through which 9,000 men were corrupted, and if it be necessary that these things be shown, then I for one fail to find in this record the proof that would be necessary to reach an adverse conclusion. I, however, do not agree to that rule; and I do not agree to it because I want to preserve the primary election in the selection of candidates for this office as well as for all other offices. I do not agree that it is necessary to discover and point out the persons who were improperly influenced in order to challenge and to characterize the election as a corrupt election.

There are two rules that have been recognized in the Senate in former times. One is that if a third person or third persons, without any participation or knowledge on the part of the sitting Member, corrupt enough votes to change the result, then the title fails. The other rule is that if the sitting Member, or the person who has received the certificate, himself participates in or has knowledge of or is responsible for the corrupt change of a single vote, then the title fails as completely as it would in the other instance where a sufficient number to change the result were shown to have been changed.

What rule does the Senator from Utah apply in this case? I asked yesterday in debate his opinion with regard to this state of affairs: Suppose Senator STEPHENSON had given to Mr. Edmonds \$107,000 to accomplish his election by the legislature upon the hypothesis that there had been no primary election, and suppose that, concerning the members of the legislature, Mr. Edmonds had done the things which he is shown to have done with respect to the primary election, would the election have been an honest one? Would the Senator from Utah sustain the title to a seat procured in that way?

Mr. SUTHERLAND. Mr. President—

The PRESIDING OFFICER (Mr. WORKS in the chair). Does the Senator from Iowa yield to the Senator from Utah?

Mr. CUMMINS. Yes.

Mr. SUTHERLAND. Mr. President, if the Senator from Wisconsin had given Mr. Edmonds \$107,000, as he did in this case, and had said to him, as he did in this case, "I want you to keep within the law," and I believed, as I do believe, that the Senator from Wisconsin meant what he said, and Edmonds had spent the money corruptly, which I do not believe he did, and the Senator from Wisconsin had had no knowledge of it, I would not declare his seat vacant.

Mr. CUMMINS. The Senator from Utah has put into his answer so many conditions that it is a little difficult for me to know just what he believes with respect to the precise question I asked him. I infer that he believes that going in before a legislature, free to elect anybody that it desires to elect, if the Senator from Wisconsin had given his agent \$107,000, and through the expenditure of that money the election had been accomplished, still Senator STEPHENSON could not be held to have had knowledge of or be responsible for the manner in which the money was expended.

Mr. SUTHERLAND. Well, the Senator from Iowa, if I understand him now—perhaps I misunderstood him before—speaks about a case where the election is to be accomplished by the legislature without the intervention of a primary. Is that correct?

Mr. CUMMINS. Precisely.

Mr. SUTHERLAND. Of course, in that case I think nobody could conceive of any good reason, any legitimate reason, why any agent should be intrusted with the expenditure of \$107,000. I can conceive of no legitimate use such a sum of money could be put to in an election to be accomplished entirely by the legislature without the intervention of a primary vote. But when you come to a primary vote, the situation is altogether different. I will not take up the time of the Senator to point it out now, because I intend a little later on to enter into the matter in some detail, but it involves—it may involve at any rate—the organization of the State, because when a man is a candidate

before the primary he has no party organization behind him; he must constitute his own organization, if he has any, and he may expend money in a variety of ways, all perfectly legitimate; and so no presumption of law and no strong presumption of fact, in my judgment, follows from the mere fact under those circumstances that this large sum of money has been intrusted to agents to expend, because I can conceive of perfectly legitimate ways in which that amount of money under those circumstances could be expended, but I could not in the case of which the Senator speaks.

Mr. CUMMINS. I entirely agree with the Senator from Utah with regard to the case I put. I find that we concur upon that proposition. Now, we pass to the question of the primary.

Mr. KERN. Mr. President—

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Indiana?

Mr. CUMMINS. I do.

Mr. KERN. Referring to the suggestion of the Senator from Utah that Senator STEPHENSON admonished his managers to keep within the law, I desire to call the attention of the Senator, if it will not interrupt him, to the statement of the Senator from Wisconsin as to what he meant by that. I will read briefly from page 50 of the record.

Senator POMERENE. Did you say anything to him—

Referring to one of the managers—

as to the method of expending it?

Senator STEPHENSON. No, sir.

Senator POMERENE. Or the purpose for which it was to be expended?

Senator STEPHENSON. No, sir; nothing.

Senator POMERENE. When was it you said to him that you wanted him to keep within the law?

Senator STEPHENSON. At different times—to keep within the law.

Senator POMERENE. When was the first time?

Senator STEPHENSON. I think when I first talked, that it must be in accordance with the law.

Senator POMERENE. What did you mean by that?

Senator STEPHENSON. In our primary election, if a man was running for the legislature in the primary election, you understand, that he should not help him for his nomination.

Senator POMERENE. Did you have anything else in mind?

Senator STEPHENSON. No; nothing in particular.

Mr. CUMMINS. Well, Mr. President, my view of it is—and I think we must hold that doctrine if we are to preserve primary elections—that when a candidate for nomination gives his selected agent a sum of money to expend in the primary election he becomes responsible for the manner in which it is spent, and if it is spent corruptly the title to his seat is as effectually impaired or destroyed as though the candidate had personal knowledge of the precise way in which the money was expended. There is no other way in which we can hold to the purity of our primary elections. If the Senate is about to hold that a man may give another man \$107,000, with the direction that it is to be expended within the law, and then shield himself by his ignorance of the way in which the money is expended, there is no safety either in elections by legislatures or in nominations by popular vote.

Of course, if one wanted to buy his way in a popular election, he would not himself participate in the corrupt agreement. It is almost inconceivable that one who would aspire to a seat in this body would, himself enter the details of a corrupt performance of this sort; but will the Senate say that if a candidate puts money into hands that do corruptly use it, nevertheless it is an honest election so far as he is concerned? Will it be contended, after it is shown that \$107,000 was put into the hands of Mr. Edmonds to influence the primary election in some way, that, in order to escape the consequences of that act, we must show that the individual voters to the extent of diminishing the vote cast for the sitting Member below a plurality were actually corrupted?

Does the Senator from Utah, does any Senator—for I will not make the question specific—does any Senator believe that if a candidate before a legislature gives to his agent whom he selects to carry on his campaign \$10,000 to be expended in his campaign, and that agent corrupts a single man in the legislature, the title to the seat is still secure and perfect? No. If the candidate furnishes the means by which the corruption was practiced, and if it was practiced upon a single person in the case of the legislature, I think that the well-established principles, not only of honesty but the fair inferences from the proceedings of the Senate heretofore, would invalidate a seat so secured. Therefore, when Mr. STEPHENSON set afloat \$107,000, confided it to other hands with instructions that it was to be spent to accomplish a particular purpose, if it was spent for a corrupt purpose, if it did destroy the free will and the unbiased judgment of the voters of Wisconsin to any extent, then I believe that the sitting Member must be held responsible for that corruption of the electorate; for if we do not hold that rule, then corruption in the primaries of the country can be practiced without any restriction whatsoever.

I do not admit that the law of Wisconsin could be invoked in order to make an act dishonest which we regard as honest; indeed, I believe it could not be so invoked. Then will those who follow me, will the Senator from Utah, tell the Senate what protection we have in this country against the invasion of primary elections? How are we to preserve their purity if legislatures are to accept the decisions of these elections as controlling upon their votes and if the candidates are permitted to corrupt this public expression?

Suppose that the House of Representatives were to engage in a contest over an election itself; suppose Mr. STEPHENSON had been a candidate for the House of Representatives, and it had been shown that he did there precisely what he did here, what would be the judgment of the House of Representatives upon that election? Would it be necessary, in order to invalidate the election, to show that enough individuals were actually corrupted to reduce his vote below the vote of his opponents? I do not think so. I do not believe we can hold that rule and still hold fast to the present system of nominating candidates for Senator of the United States.

I look upon the influence of this vote as vastly more comprehensive and far-reaching than the determination of the title of Senator STEPHENSON to a seat in this body. We must deal justly with him; but in determining what is justice to him, we ought to gravely and seriously consider what is justice to the people of the United States.

We are now engaged, throughout the whole country, in one of the most momentous struggles that civilization has ever seen with regard to representative government. No matter what may be true in the States, no matter how applicable the initiative and referendum may be to smaller communities and more homogeneous people, I think it is everywhere conceded that the Government of the United States must remain a purely representative Government.

I myself have not allowed my faith in representative government to weaken. I believe the people should select their representatives in this and other governing bodies of the country. And if we are to do it, if we are to preserve their confidence in the Government of which they are a part, then their will—their unpurchased, honest will—must control in the selection of those representatives.

As it seems to me, the fate of our institutions will be determined in the decision of just such cases as this. I do not assert, of course, that the decision of this case one way or the other of itself will be conclusive as to the course that we will pursue in the future. But all these things go to make up the judgment of the people with regard to the character of the institutions under which they live.

The people have determined that they will nominate their candidates for the House of Representatives in primary elections, and they do it in nearly two-thirds of the States of the Union. The people have determined that they will select their party candidates for the Senate of the United States in popular elections. They intend to so select them, and they will in some way accomplish their purpose. And if we, in our consideration and decision of this controversy, shall say to them that the instrumentality which they have adopted for the purpose of selecting their candidates can be corrupted, if it can be turned aside so that the man whom they would select is not selected, we will still further impair and finally destroy their faith in representative government.

I hope that, no matter what may be the result of this controversy, the debate here will make it so clear that he who runs may read, that primary elections, in the judgment of the Senate, are sacred and inviolable against the power of money and the influences of corrupt practices.

Mr. LEA. Mr. President, I desire to state very briefly—

Mr. HITCHCOCK. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Senator from Nebraska suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Bacon	Dillingham	Lodge	Richardson
Bankhead	du Pont	Lorimer	Root
Borah	Foster	McCumber	Simmons
Brandegee	Gamble	McLean	Smith, Ga.
Bristow	Gardner	Martine, N. J.	Smith, Mich.
Brown	Gore	Myers	Smith, S. C.
Bryan	Gronna	Newlands	Smoot
Burnham	Heyburn	Nixon	Stephenson
Burton	Hitchcock	O'Gorman	Stone
Chilton	Johnson, Me.	Oliver	Sutherland
Clapp	Johnston, Ala.	Overman	Townsend
Crane	Jones	Pago	Warren
Culberson	Kenyon	Percy	Watson
Cullom	Kern	Perkins	Wetmore
Cummins	Lea	Pomerene	Works
Curtis	Lippitt	Rayner	

Mr. BURNHAM. I wish to say that my colleague [Mr. GALLINGER] is necessarily absent.

The VICE PRESIDENT. Sixty-three Senators have responded to the roll call. A quorum of the Senate is present. The Senator from Tennessee is recognized.

Mr. LEA. Mr. President, I desire to state very briefly my reasons for signing the views of the minority in this case.

According to my view there are but two questions in the case: First. Can the Senate of the United States investigate a primary election where the primary resulted in the election by the legislature of the nominee of the primary?

Second. Does the evidence in this case show that the nomination of Senator STEPHENSON in the primary on September 2, 1908, was obtained by corruption?

I believe both of these questions can and should be answered in the affirmative; therefore I joined with the minority in the expression of its minority views.

Precedent would permit us to hold that such has been the view of the Senate heretofore, for in at least two cases it has been decided by the Committee on Privileges and Elections, under such circumstances as to be tantamount to a decision by the Senate of the United States, that the Senate would and should consider other acts than those that merely took place in the formal election of the candidate by the general assembly. I refer to the Caldwell case from Kansas and to the Payne case from Ohio.

In the Caldwell case the most serious charge against the sitting Member was that he had expended the sum of \$15,000 for the purpose of getting another candidate, a formidable rival, to withdraw his candidacy. That was a matter entirely outside of the legislative act of electing a Senator; yet the Committee on Privileges and Elections held that that constituted a corrupt method and practice, and the attitude of the Senate was evidently the same, for the sitting Member resigned before the question could be voted upon by the Senate.

In the Payne case three views were expressed by the Committee on Privileges and Elections. A majority, however, took the position and held firmly to the idea that the Senate could and should investigate the methods of caucuses, where the nominee of the caucus, because he was the nominee of the caucus, had been elected Senator.

I desire in this connection to read the views of Senators Hoar and Frye, because they represent so fully my ideas upon this subject:

If B, C, and D have promised to vote as A shall vote, if A be corrupted, 4 votes are gained by the process, although B, C, and D be innocent. In looking, therefore, to see whether an election by the legislature was procured or effected by bribery, it may be very important to discover whether that bribery procured the nomination of a caucus, whose action a majority of the legislature were bound in honor to support.

I think that case is parallel to the case here, for no one who has read the record can doubt that Senator STEPHENSON was elected solely and entirely because he was the nominee of the primary of September 2, 1908. It is safe to say that had he not received that nomination his name would not have been presented to the legislature which assembled in January, 1909.

The records of that general assembly show that at least 10 members of the assembly in casting their votes on different occasions for Senator STEPHENSON stated that they voted under protest and that they voted for him because he was the nominee of the primary. In this connection I have prepared a table showing the votes of the members of the legislature and how various members voted for this candidate or that candidate because he had received the instructions either of the State or of the district which the member represented. I should like permission to print that table without reading it.

The VICE PRESIDENT. Without objection, permission is granted.

Mr. LEA. I desire, however, to read certain statements that were made.

Mr. HEYBURN. Mr. President—

The VICE PRESIDENT. Does the Senator from Tennessee yield to the Senator from Idaho?

Mr. LEA. I do.

Mr. HEYBURN. I would suggest to the Senator that inasmuch as the RECORD will not be again printed before Senators vote, and the Senator doubtless desires that the information contained in this statement shall be accessible to the Members of this body, it might be well to read it; otherwise it will not come to the attention of Senators until after the vote.

Mr. LEA. Mr. President, as the table furnishes only certain results from a primary, a question which is really not under discussion to-day, however much it may have been discussed by the committee that made this investigation, if there is objection I will withdraw the request.

Mr. HEYBURN. Oh, I do not object.

Mr. LEA. I do not think it is of great importance in the case; but I do think it is of importance in the discussion of the question of primaries, which has been injected into the case.

Mr. HEYBURN. I should not like to have the Senator think I objected. I only made a suggestion as to the manner of bringing it to the attention of the Senate, in the interest of the Senator's presentation of the case, and not as an objection.

Mr. LEA. I thank the Senator for his suggestion, but I will read certain statements made by members of the Wisconsin Legislature in voting for Senator STEPHENSON, showing that they voted for him because he was the primary nominee.

Mr. Georgi stated, in voting:

Mr. President, having due regard for the primary election law, and not knowing of any candidate otherwise than the one elected at the primary election, I feel bound, contrary to my own opinion, to vote for ISAAC STEPHENSON; but I do so under protest.

Mr. HAMBRECHT. Mr. President, owing to the fact that the people of the State of Wisconsin have placed in nomination at their primary election a man, I feel in duty bound to recognize that and vote for ISAAC STEPHENSON.

Mr. KURASTA. In conformity with the primary-election law and wishes of my constituency and those in Wisconsin, I vote for ISAAC STEPHENSON.

Mr. LEDVINA. Mr. President, in conformity with the primary-election law, I vote for ISAAC STEPHENSON.

Mr. MAINS. For ISAAC STEPHENSON, under protest.

Mr. FRANK SMITH. Mr. President, owing to the fact that we have a primary-election law in this State, and under the law ISAAC STEPHENSON received the plurality of all votes cast for the office of United States Senator, and that Dane County was one of those counties that helped to roll up that plurality, I feel it my duty in carrying out the wishes of my constituents to vote for Hon. ISAAC STEPHENSON.

Mr. SIMON SMITH. Mr. President, having still in mind the vote of my district and having great respect for the primary-election law, I vote for ISAAC STEPHENSON under protest.

Mr. WEHRWEIN. ISAAC STEPHENSON, under protest.

Mr. BALLARD. Mr. President, I wish to change my vote, under protest, for ISAAC STEPHENSON.

The table.

SENATORS.

Name.	District went for—	Upheld primary.	Voted for—
Fairchild.....	McGovern.....	Yes.....	Stephenson.
Bodenstab.....	do.....	Yes.....	Do.
Lehr.....	Cook.....	Yes.....	Do.
Lyons.....	do.....	Yes.....	Do.
Page.....	McGovern.....	Yes.....	Do.

REPRESENTATIVES.

Atwood.....	Cook.....	Yes.....	Stephenson.
Brew.....	McGovern.....	Yes.....	Do.
Bray.....	Cook.....	Yes.....	Do.
Busacker.....	McGovern.....	Yes.....	Do.
Buslett.....	Hatton.....	Yes.....	Do.
Cady (B. A.).....	McGovern.....	Yes.....	Do.
Chappelle.....	do.....	Yes.....	Do.
Crowell.....	Cook.....	Yes.....	Do.
Disch.....	McGovern.....	Yes.....	Do.
Egan.....	Hatton.....	Yes.....	Do.
Estabrook.....	McGovern.....	Yes.....	Do.
Georgi.....	do.....	Yes.....	Do.
Hambrecht.....	Cook.....	Yes.....	Do.
Harras.....	McGovern.....	Yes.....	Do.
Ingalls.....	do.....	Yes.....	Do.
Irvine.....	Hatton.....	Yes.....	Do.
Jones.....	Cook.....	Yes.....	Do.
Kempf.....	McGovern.....	Yes.....	Do.
Kull.....	Cook.....	Yes.....	Do.
Ledina.....	do.....	Yes.....	Do.
Phillips.....	Hatton.....	Yes.....	Do.
Reader.....	Cook.....	Yes.....	Do.
Stack.....	Hatton.....	Yes.....	Do.
Urquhart.....	McGovern.....	Yes.....	Do.
Wellensgard.....	do.....	Yes.....	Do.

RECAPITULATION.

On final ballot: The representatives of 15 counties that went for McGovern, voted for STEPHENSON. The representatives of 10 counties that went for Cook, voted for STEPHENSON. The representatives of 5 counties that went for Hatton, voted for STEPHENSON.

The report of the joint senatorial primary investigation committee of the Wisconsin Legislature makes a statement on page 18 of that document which is much in point here:

Had each member of the legislature consistently voted for the choice of his district for United States Senator, no one could ever have been elected. STEPHENSON would have received 51 votes, Cook 24 votes, McGovern 25 votes, Hatton 8 votes, Brown 17 votes, Hoyte 4 votes, and Rummel 4 votes.

This table, the names presented in it being collaborated from the final ballot, shows that Senator STEPHENSON received the votes of 30 counties or districts he had not carried in the senatorial primary. Thus of those who had not been for Senator STEPHENSON, and whose counties or districts instructed for another, 30 held that, in effect, Senator STEPHENSON having carried 57 counties and having received more votes than any other candidate, was the nominee of the senatorial primary.

They held this "State instruction" above their "county" or "district instruction."

It is evident from this, Mr. President, that at least 10 and perhaps more of the members of the General Assembly of Wisconsin voted for Senator STEPHENSON solely and entirely because he was the nominee of the primary. The primary nomination, therefore, resulted in his election. And if we are not to inquire into the methods and practices employed in the primary, we are not to inquire into the real facts that caused the election of Senator STEPHENSON.

If the Senate is to establish the precedent that it can investigate only the formal election by the members of the general assembly in convention assembled, it is to establish a precedent that it will not investigate the elections of, perhaps, nine-tenths of its Senators, and will not have the power to make such an investigation even if it be proper to make the investigation. For it is a matter of common knowledge that except in a few cases where the political parties of a State are divided into factions, the real contest in the election of a United States Senator occurs either in the caucus that precedes the ballot in the legislature or in the primary that precedes the assembling of the legislature.

However displeasing and disappointing it may be to some Senators in this Chamber, the fact that the primary election is growing and being adopted year by year by more States makes it unwise for the Senate to establish a precedent that it will not investigate primary elections. For the time will come when every Member of this body will sit here by virtue of having been the nominee of some primary election preceding the formal election by the members of the general assembly, or, as I hope, the election by the people of the State under the constitutional amendment that is pending.

Believing, therefore, that the Senate can investigate the primary, the only other question to be considered is, Does the testimony show that corrupt methods or practices were employed in the primary?

The view I take of this case is that when Senator STEPHENSON filed his sworn statement, setting out that \$107,793.05 had been expended in the primary campaign, a prima facie case was established. While I recognize that the burden of proof must always rest upon those who hold that the election was invalid, nevertheless the duty of going forward with the proof then devolved upon Senator STEPHENSON; and it was his duty to rebut the prima facie case established by the expenditure of that enormous sum of money. If he failed to do that, the prima facie case became conclusive, and his election must be held invalid.

But it is insisted that this presumption did not arise because counsel asked these questions of every witness:

Did you spend any money in this campaign, either directly or indirectly, for the purpose of bribing or corrupting or unlawfully influencing any electors for the support of the Senator in the primary election?

Was any money expended, to your knowledge, by any of the men to whom you intrusted these funds as you have described, either directly or indirectly, for the purpose of bribing or corrupting or unlawfully influencing any voters in that election in the interest of Senator STEPHENSON?

The fact that these questions, asked every witness by counsel for Senator STEPHENSON, were answered in the negative, prevents this presumption from arising. It is also insisted by the counsel for Senator STEPHENSON that because expert witnesses, professional politicians, showed that a vast sum of money—\$180,000 or \$200,000—could have been expended in the 2,200 precincts in Wisconsin without any corruption, the presumption does not arise in this case.

Mr. HEYBURN. Mr. President—

The VICE PRESIDENT. Does the Senator from Tennessee yield to the Senator from Idaho?

Mr. LEA. Certainly.

Mr. HEYBURN. The expert testimony was not received by the committee. It was offered, but the committee declined to receive expert testimony as to what sum might be expended.

Mr. LEA. Mr. President, when I say "expert testimony" I refer to the testimony of men like Riordan, Perrin, and others, who testified that they had had 15, 20, or 40 years' experience in the politics of Wisconsin, and that, in their opinion, that sum of money could have been expended properly—not only properly, but necessarily—for the purpose of getting out the vote in the 2,200 precincts in Wisconsin. I think Mr. Edmonds, Senator STEPHENSON's campaign manager, testified that the smallest sum a man could have expended to organize properly the State was the sum of \$180,000.

I will grant that \$107,000 could have been expended legitimately. It might have been all expended for the rent of offices or the headquarters of the campaign. But, of course, we know that is absurd. It might have been all expended for stamps, all for printing, or all for printing and postage for the purpose

of sending out campaign circulars; and proof of that fact would have rebutted the presumption. But the facts in this case do not show that to have been so. They show that after deducting what may be called the legitimate expenses—expenses for printing, stationery, telephones, telegraph, traveling expenses, advertising in newspapers, and a lump sum of nearly \$10,000 classified as "sundries," there remained over \$62,000 which was expended for "organizing the State."

There is very little light shed upon what the term "organization" means. Yet in that testimony we find expenditures called "general" or "general organization"; and the word "general" occurs so often and for such vast amounts that we can almost draw the conclusion that the Wisconsin generals are as ubiquitous as the Kentucky colonels. I think sixteen times, aggregating a total of several thousand dollars, this item of "general" occurs, in connection with sums varying from \$5 to \$300 in each instance.

It is my contention that the expenditure of \$62,000 in this case not only did not rebut the presumption to which the sworn statement of Senator STEPHENSON gave rise, but it strengthened that presumption. I am going to discuss briefly only three phases of that expenditure.

The first of these is the expenditure that went to ward or poll workers.

The record teems with illustrations of men being paid \$5, \$15, or \$20 at polling places for the purpose of handing out cards for Senator STEPHENSON, or creating at the polls Stephenson sentiment, when, in point of fact, we know that when those men sold their labor they were at the same time selling their votes and influence, even though that fact be concealed under the euphonious term "organization."

I think the statement of Senator STEPHENSON's manager was conclusive, when in reply to a question asked by the chairman of this committee, "How many votes would Senator STEPHENSON have received had these men not been employed?" he said, "Not very many." And if in that primary, the winning of the nomination of which resulted in his election, Senator STEPHENSON would have received only a very few votes had not those men been employed at the polls, the conclusion is irresistible that the expenditure of over \$60,000 solely for the purpose of organizing and employing these men at the polls was a form of bribery and corruption that justifies us in holding his election invalid.

Then we pass to the question of expenditure to State officers, and two of the worst spots in this record are where the money was expended to State officials. I refer first to the money that was paid to J. W. Stone, State game warden. There was the sum of \$2,500 paid in currency to the State game warden, and paid, as this record shows, under the direction of Senator STEPHENSON himself. And for what purpose? For no other purpose than for the purpose of buying the influence and power of that office, which Senator STEPHENSON's manager says was the most powerful political office in Wisconsin. The circumstances under which this money was paid show that it was a suspicious act, and that the men doing it knew that they were doing wrong. As I recall the testimony, Manager Edmonds says that Mr. Stone came to him and said that he had had a conversation with Senator STEPHENSON at Marionette, and as the result of that conversation Senator STEPHENSON authorized him, Mr. Edmonds, to pay to Stone the sum of \$2,500. Stone refused to take it in a check or in a cashier's check, but demanded the money in currency, in large bills of \$100. What was Mr. Stone to do with it? The testimony is very clear and uncontradicted that he was paid, but the purpose for which this money was paid Mr. Stone is not equally clear. I wish to read in this connection a short extract from the evidence of Mr. Stone:

The CHAIRMAN. For what purpose was that money given you?

Mr. STONE. It was to be expended in the interest of Mr. STEPHENSON's primary campaign.

The CHAIRMAN. Was it to be expended by you, or were you authorized to pay it out to others to be expended by them?

Mr. STONE. I was to use it at my own discretion.

In referring to the uses that were to be made of part of this money that was passed by Stone to one of his deputies, H. A. Bowman, the following testimony is interesting:

The CHAIRMAN. For what purpose did you give that to Mr. Bowman?

Mr. STONE. For him to use in the interest of Mr. STEPHENSON's campaign.

The CHAIRMAN. Did you tell him the use he was to make of it?

Mr. STONE. I did not.

The CHAIRMAN. Did you discuss with him the manner in which it was to be used?

Mr. STONE. I presume he naturally did—

The CHAIRMAN. What was said as to the manner in which that money was to be used?

Mr. STONE. It was to be expended for workers.

The CHAIRMAN. For workers?

Mr. STONE. Yes.

The CHAIRMAN. Workers to do what kind of work?

Mr. STONE. Ordinary election work.

The record contains other testimony of that kind. Another instance was the payment of \$2,350 to L. L. Dresser, a member of the Wisconsin Board of Control. Mr. Dresser recognized that this was improper, and he defends his action by saying he did not pass it on himself to the "ultimate consumer," the voter, but that he selected trustworthy men in each of the counties of which he was to have charge for the purpose of passing this money out to the voters.

Then we come to the question of payments that were made to candidates for the legislature. There are two classes of these payments—payments made to men who were candidates for the legislature, but who were defeated, and to men who were candidates for the legislature and who were elected.

As I understand the law of Wisconsin, it prohibits any candidate for Senator from contributing to the campaign fund of any candidate for the general assembly except the candidates that may be in the same district as that in which the senatorial candidate lives. These instances show an absolute violation of the Wisconsin statute law.

The testimony shows that some of Senator STEPHENSON'S agents paid to a man named Smith, who was a candidate for the legislature, the sum of \$250, although the record does not disclose one single act that Smith was to perform for that money. They were unable to show a single duty that was imposed upon him by the payment of it. What does that mean? It means that if Smith had been elected to the legislature he would have felt bound to have given his vote to Senator STEPHENSON. The payment of that amount of money to Smith is inconceivable upon any other basis. The same is true of the payment that was made to Shauers.

Then we pass on to three candidates for the general assembly who were elected. Two of them were paid \$250 each, for that seems to have been the standard price to pay to a candidate for the legislature in this campaign. The other was paid \$280. Two of these men, at least, were paid the sums of money by Senator STEPHENSON; and, as it is stated in this record, the laws of Wisconsin prohibit campaign contributions of this kind from senatorial candidates for the legislature, an instance, therefore, of violation of the statutes of Wisconsin by Senator STEPHENSON.

Much has been said of the beautiful sentiments expressed by Senator STEPHENSON and his managers about obeying the law; how they assembled and said to each other and to themselves, "We must keep within the law; we must not violate the law"; and then they proceeded to violate the statutes of Wisconsin, and to violate the rules of ordinary decency and propriety, and apparently wept because there was nothing else to violate.

Mr. President, the Senate has another contested-election case before it. That case was passed upon by the Senate about a year ago, and it was held, in effect, by the majority of the Senate that there was one material fact absent, that there was no proof in that case of any corruption fund having been assembled for the purpose of corrupting any members of the legislature that elected the sitting Member whose seat was being contested. But the Senate was unanimous a short time thereafter in voting to reopen that case for the purpose of finding out whether there was a colossal corruption fund for the purpose of bribing members of the legislature. By that vote, I take it, the Senate meant that with the other facts present in that case—the confession by members of the legislature that they had been guilty of accepting bribes, together with proof of a colossal corruption fund of over \$100,000—it would justify the unseating of the sitting Member. Otherwise the reopening of the case can not be explained.

Now, in this case we have all the elements concurring that could possibly concur in that case if the second investigation—and upon what it may show I am not speaking—showed that an enormous corruption fund had been collected and disbursed. We have in this Stephenson case the expenditure of the sum of over \$100,000. We have it expended under circumstances which show that the statutes of the State of Wisconsin were violated and that it was by corruption that the primary nomination was secured by Senator STEPHENSON.

Although I do not think it is necessary, I want to say here the fact that a man has avoided committing criminal acts in his campaign which, if committed, would have made him a proper inmate of the penitentiary does not mean necessarily that he is legally elected a Senator. But we have in this case violation of law. We have facts showing the individual bribery and corruption of voters at the polls, and under circumstances that showed it had the effect of electing the candidate. How can anyone who voted to reopen the other contested-election case upon the theory which I have discussed vote that the election of STEPHENSON was legal and valid when all the facts

that could possibly have been shown by the second investigation to have existed in the other case exist in the case before us?

It is not a pleasant duty, Mr. President, either to make these statements or to cast a vote against Senator STEPHENSON. I am sure I am relating what is true of every member of the Committee on Privileges and Elections when I say that I had hoped, when this case was first referred to that committee to determine whether an investigation should be made, that on account of the age and the honorable life the sitting Member had lived heretofore the facts would warrant the committee in returning a report that an investigation was not necessary. But the committee decided that an investigation was necessary, and it is our duty to vote as the record shows the facts to be.

In conclusion, Mr. President, I desire to state that my vote is determined in this case by the principle of law announced by the Senator from New York [Mr. Root] in another case as applied to the facts as shown by the testimony of Senator STEPHENSON'S own manager. In discussing the Lorimer case February 14, 1911, the Senator from New York announced this principle:

If on the whole testimony the Senate be of the opinion that but for the influence of the corrupt methods or practices employed the candidate would not have been elected, the election should have been declared void.

On page 259 of the report of the committee, Mr. Edmonds, Senator STEPHENSON'S chief manager, established the following facts:

The CHAIRMAN. There seems to have been a general apathy. These men whom you have employed to get out the vote for Senator STEPHENSON seem to have managed to get out 56,839 votes out of 470,480 votes in the State. Had you not employed these men, would Senator STEPHENSON have gotten any votes at all?

Mr. EDMONDS. Not very many.

Mr. President, if the facts be as Manager Edmonds states them to be and everyone reading this record must know them to be, that Senator STEPHENSON would have received "not very many" votes except for the employment of men at a cost of over \$62,000, that amount being expended according to Senator STEPHENSON'S sworn statement for such purposes, the remainder being expended for purposes avowedly legitimate, and if the principle of law announced by the Senator from New York is sound, as I conceive it to be, I am constrained to be of the opinion that but for the influence of corrupt means practiced and employed by the expenditure of this enormous fund Senator STEPHENSON would not have been elected, and that his election should therefore be declared invalid.

Mr. SUTHERLAND. Mr. President, the very able argument which was made by the Senator from Ohio [Mr. POMERENE] a short time ago has very much simplified my task. He covered so well and so ably very much that I had intended to say that I shall be able to condense my remarks within a much shorter space than I had originally intended.

There are three principal questions which I desire to discuss. The first is as to whether or not there was any corruption or bribery in connection with the election by the legislature itself; second, whether there was any bribery or corruption during or preceding the primary election or during or preceding the general election which can be said to have corruptly influenced the action of any member of the legislature; and, third, whether or not any corruption or bribery occurred during the primary election, and if so what effect it would have upon the subsequent election by the legislature.

So far as the election by the legislature is concerned I do not understand it to be seriously contended by anybody now that any corruption or bribery existed or, at any rate, that any corruption or bribery has been established by the evidence.

The Legislature of Wisconsin which elected Senator STEPHENSON consisted of 33 senators and 100 assemblymen. On January 26, 1909, that being the first day under the Federal statute when a vote could be taken, the two houses, in accordance with the statute, voted separately upon the election of a United States Senator.

In the senate 17 senators voted for persons for United States Senator. Twelve of these 17 votes were cast for Senator STEPHENSON, and 16 of the senators who were in the chamber simply answered "Present" and cast no votes for anybody.

In the house 82 members voted, the others, as I recollect, being absent, and of those 82 who voted for persons 60 of them voted for Senator STEPHENSON.

So it will be seen that a clear majority of the members of the senate who voted for persons cast their ballots for Senator STEPHENSON—12 out of 17.

In the house no question whatever can possibly arise, because of 82 who voted, and they were the only members present, 60 of them voted for Senator STEPHENSON.

But notwithstanding this, when the two houses met in joint assembly the following day the presiding officer of the assembly

declined to declare the clear result of the election. Of course, the action of a presiding officer in declaring the result of an election in the separate houses as exhibited by their two journals is purely a ministerial matter, and its omission could not affect the right to the seat of the Senator who was actually elected. It would simply render it a little more difficult for him to present evidence to this body respecting his election, but, having presented that evidence, it is perfectly clear that the Senate would have seated him upon the election which was held upon January 26, 1909.

In this connection, I desire to call attention to the statute of the United States under which this election is held. Section 15 provides that—

Such election shall be conducted in the following manner: Each house shall openly, by a viva voce vote of each member present, name one person for Senator in Congress from such State, and the name of the person so voted for who receives a majority of the whole number of votes cast in each house shall be entered on the journal of that house by the clerk or secretary thereof; or if either house fails to give such majority to any person on that day, the fact shall be entered on the journal. At 12 o'clock meridian of the day following that on which proceedings are required to take place as aforesaid the members of the two houses shall convene in joint assembly, and the journal of each house shall then be read, and if the same person has received a majority of all the votes in each house he shall be declared duly elected Senator.

You will observe, therefore, that every provision of the Federal statute had been complied with. Each house shall name one person for Senator. "The name of the person so voted for who receives a majority of the whole number of votes cast in each house shall be entered," and so forth. Now, the whole number of votes cast in the senate was 17. I will not stop now to read from any of the authorities, but it has been held that the mere voting "present" or casting a blank ballot is not a vote. That can not be regarded as a part of the "votes" cast in each house in the meaning of the statute.

So it is perfectly clear, as it seems to me, that if Senator STEPHENSON had chosen to rely upon it he could have come to the Senate with an unimpeached title on the 28th of January, 1909. But instead of the presiding officer declaring the result he declined to do so, and the joint assembly proceeded to ballot for Senator, and continued to ballot from day to day thereafter until on the 4th of March, 1909, Senator STEPHENSON, of the total number of votes cast, which was 123, received 63, or a majority of 3.

Now, it is charged that certain members of the legislature had been bribed. Their names were given. But the fullest investigation failed to disclose any facts which would justify the conclusion or the inference that the charges as to their bribery were established. It was also charged that three members of the joint assembly, all being Democrats, were absent at the time the vote was taken, and that their absence had been procured by bribery or corruption. The fullest investigation of that question failed to disclose any such state of affairs. One of the men who was absent was paired with another absent member in accordance with a rule which had been recognized in both houses of the Wisconsin Legislature. His presence would still have given Senator STEPHENSON a majority of one. It was charged with reference to the other two—and they were not paired—that their absence had been procured by corruption. But there was absolutely no testimony that would justify any such conclusion.

So we may pass from that, I think, safely assuming that there is no evidence whatever of corruption or bribery so far as the election by the legislature itself is concerned.

Now, before I begin the discussion of the two remaining questions I desire to direct the attention of the Senate to the precise question which we are called upon here to investigate, and in order that it may be sharply brought to the attention of the Senate I will read from the resolution adopted by the Senate directing this inquiry.

On August 15, 1911, the Senate adopted this resolution:

Resolved, That the Senate Committee on Privileges and Elections or any subcommittee thereof be authorized and directed to investigate certain charges preferred by the Legislature of Wisconsin against ISAAC STEPHENSON, a Senator of the United States from the State of Wisconsin, and report to the Senate whether in the election of said ISAAC STEPHENSON, as a Senator of the United States from the said State of Wisconsin, there were used or employed corrupt methods or practices.

That is as far as I need to read in the resolution.

So the committee was directed to inquire whether or not in that election "there were used or employed corrupt methods or practices." We were not called upon, and the committee was not called upon, to investigate or determine upon questions of good taste or whether the conduct of the Senator or of anybody else was in accordance with the highest ethical standards, but the inquiry was whether or not the conduct was corrupt.

I submit that much which has been said in this discussion is wholly irrelevant to the case which we have to consider. If

each Member of the Senate were to be tried and judged by the ethical standards of some other Member and that other Member were in turn to be tried by the ethical standards of still another Member, I venture to say none of us would see salvation.

It is not a question of ethics. It is not a question of good taste. It is not a question whether we approve of certain methods, and it is not a question whether we regard it as unfortunate or demoralizing that a large sum of money should be spent in an election; but the question is whether or not the methods employed in that election were corrupt.

I submit that the determination of such a case, if submitted to the courts, would be governed by certain definite rules established by the law of evidence and certain substantive rules either established by statute or by the common law. The fact that this inquiry is made in the Senate of the United States, it seems to me, does not alter that fundamental principle. We are proceeding here in a judicial capacity, as the Senator from Ohio [Mr. POMERENE] well pointed out this morning. We are not here in our legislative capacity. Under the Constitution of the United States we are made the "judge" of the election and qualifications and returns of the Members, and the word "judge" was not chosen idly. It means that we are here to render judgment, and a judgment is essentially different from an act of legislation.

We are here, therefore, in a judicial capacity to investigate this question dispassionately, to determine what the facts show, and then apply the law to the facts, and it is just as important that this great tribunal should be governed by settled and fixed rules, either provided by statute or determined by precedent or by the rules of the common law, as it is that a court making a similar inquiry should be so governed.

We can not make rules for the determination of a case as the case progresses. The rules by which we determine each case must be in some manner preexisting rules. To make rules for each case as it arose would be to confuse the office of judges with the office of legislators.

Mr. President, if I understand the attitude of some of the Senators who have spoken upon this question, their opposition to Senator STEPHENSON can only be justified by assuming one of two conclusive presumptions.

First, it is said that in this election the sum of one hundred and seven thousand and odd dollars was spent. Is it to be conclusively presumed that because that large sum of money was expended in a primary election it was corruptly spent? If so, if the conclusive presumption follows from the mere fact that this large sum of money was spent, then this whole investigation has been an utter waste of money and an utter waste of time, because that was conceded in the very beginning. Senator STEPHENSON conceded it when he filed his statement of account sworn to, which admits that he had spent \$107,000, and in general terms stating for what particular purposes he spent it. So, if it is to be conclusively presumed that because an expenditure of that size was made it was corruptly expended, we have been wasting the time of this special committee which put in weeks at Milwaukee in an effort to ascertain the facts.

Of course no such presumption as that can arise in such a case; but if that presumption does not arise, it would seem to be contended that the conclusive presumption arises in detail, that each one intrusted with a sum of money to spend is presumed to have spent it unlawfully; for it is insisted that, even as against the sworn testimony to the contrary of every witness called in this inquiry, we must assume that the money spent by each of these persons was directly or indirectly to corrupt voters at the primary. It seems to me that that would be a complete reversal of the law with reference to presumptions. I think the rule of law is undoubted, that where a state of facts is reasonably capable of either one of two explanations, one that the transaction was unlawful or corrupt, the other that it was lawful, we must accept the latter as the controlling presumption.

It is true that the expenditure of \$107,000 in a primary election—nothing further than that fact appearing—would seem to be unreasonable, would be such an expenditure as to call for investigation. I think the Legislature of Wisconsin were quite right, after these facts were brought to their attention, in demanding that they should be investigated; I think the investigation ordered by the Senate was quite warranted by the facts as they were then made to appear; but we do not have to go very far into an investigation of the facts and the circumstances surrounding the primary election in Wisconsin until we find, as I view it, that whatever inference, whatever presumption, might otherwise arise from the expenditure of this vast sum of money has been entirely overcome.

In the first place, there are in the State of Wisconsin 71 counties. The State contains an area almost equal to that of

all the States of New England. There are 2,200 election precincts in the State. In the case of an ordinary election two parties or more are contending for the suffrages of the voters. Each one of those parties has a thorough and complete organization; a large proportion of the men enlisted in the organization render service to the party without charge. They do it because they believe that the supremacy of the party to which they belong will be for the welfare of the State or of the Nation. So a political party may employ a vast number of men to perform political duties necessary in the conduct of an election without any expenditure, or with little expenditure, of money, where the individual employing such men would be compelled to expend a large sum of money. In these 71 counties of Wisconsin and in these 2,200 election precincts there are 8,966 men in the legitimate organizations of the Republican Party. There are, in the first place, three committeemen for each precinct; there is the county committee, with a chairman and a member from each precinct; there is the State committee, with a member from each county and a chairman and other officers, aggregating altogether a perfect army of men, nearly 10,000 in number. That number of men is necessary, either to render their services without pay or with pay, to conduct the election on behalf of the Republican Party of Wisconsin.

When a man becomes a candidate before a primary he has no party behind him; he has no organization behind him. If he is to carry on his campaign with anything like the effectiveness with which the campaign at the general election must be carried on by the parties, he must make an organization. It is not difficult to see that a man earnestly desiring to obtain the suffrages of the voters of his party at a primary election could employ one man or two men in each of the precincts. It can be readily seen, as it seems to me, that a man could spend \$40 or \$50 legitimately in each of these precincts, and not only legitimately, but in such manner as to be above criticism. If he spent \$50 in each of these 2,200 election precincts of Wisconsin, that alone would amount to the enormous sum of \$110,000—more than the amount expended by Mr. STEPHENSON. In addition to that, he could expend money for legitimate advertising; he could expend money for lithographs, as he did expend it, for advertising himself in the newspapers, for circulating petitions, as he did, and in a variety of other ways.

Let me right here call attention to one of the largest single expenditures made, as shown by the testimony in this case and by the sworn account. Mr. STEPHENSON's agents expended for postage stamps alone the enormous sum of \$11,399. More than one-tenth of all this sum of \$107,000 was spent for 2-cent postage stamps. We can readily see that the use of this \$11,399 worth of postage stamps must have represented another legitimate expenditure vastly exceeding it, because each stamp would carry out literature which required work to produce, which required clerks to fold and inclose; and I venture to say that the expenditure of \$11,399 in postage stamps alone must have carried two or three times their value in documents or circulars or letters.

So it seems to me, when we come to consider these circumstances, whatever unfavorable presumption might otherwise arise from the mere fact of the expenditure of \$107,000 must disappear. When we are presented with these two sets of facts—one the expenditure of \$107,000 upon the one side, and the facts and circumstances which indicate clearly that it might have been and could have been legitimately expended—then, in accordance with every rule of presumption, we must accept the latter, because the latter presumption makes for lawful action and the contrary would make for unlawful action.

One other consideration in that connection, and the fact that I am about to state is to me a tremendous fact in this case. In my mind it has been one of the controlling facts. It is perfectly idle for anybody to contend that if this \$107,000 was spent corruptly, was spent in the way of bribing and corrupting voters, it was not spent in widespread fashion throughout the State. It is a perfect absurdity to say that this large sum of money was used for the purpose of bribing or corrupting merely one or two or a dozen or fifty voters. If it was used corruptly at all, the corruption was widespread; not a dozen or fifty or one hundred, but hundreds and thousands of voters must have been bribed. It would have been an utterly foolish thing for men engaged in an election of this kind, undertaking to carry it by corruption, to have spent their money except in this widespread way.

This primary election occurred in the early autumn of 1908, three and a half years ago. The legislature which was elected at the election immediately succeeding the primary met in January, 1909. Immediately after the legislature met charges were brought to their attention that the result of this primary election had been brought about by corruption. An investigation

was immediately set on foot. Witnesses were called from all over the State to testify before that investigating committee. After that full investigation had been made at that time, still another investigation was made subsequently by the Legislature of Wisconsin. The result of those investigations is contained—I have not the volumes here—but I think in three or four large volumes, perhaps more. Then the matter was brought to the attention of the United States Senate, and we ordered an investigation. The subcommittee, of which I was a member, went to Milwaukee and sat for several weeks hearing witnesses, not only those who had been before the Legislature of Wisconsin, but others, probing every rumor that was brought to our attention. Mr. Blaine, who introduced the original charges, the detailed charges, came before the committee, Senator Hustling, and many others. The members of the legislative committee who had been opposed to Senator STEPHENSON were called before our committee, and were asked to state not only what they themselves knew, but what they had heard about it. Each one of them was asked, "Do you know of any other fact, any other piece of evidence that this committee can obtain?" "Have you heard of anything that this committee by inquiry can locate?" We obtained from those men every vestige of information which they had. Mr. Blaine, for example, when his detailed charges were read to him, stated with reference to one after the other of them, "I know nothing about that." With reference to one charge, for example, "The only information I have is that it was contained in an editorial in a newspaper." We asked who was the editor of that paper, and he told us. We sent for the editor, confronted him with his editorial, and asked him upon what he based it. If he said he had based it upon the statement of some other man, we obtained that other man and got his evidence upon the subject.

I remember one instance where a witness said that he had made a statement based upon what So-and-so had said to him. So-and-so was sent for, and he, in turn, told us that he had heard it from another man, and we sent for the other man, and still for another man. Finally, the last man called said that he had heard a couple of drummers on a train running through Wisconsin talking this subject over; that those drummers had disappeared; and that he did not know where they were. Every rumor that could be presented to this committee was followed until it faded into unsubstantial air.

Now, the proposition I make is that if this money was spent broadcast for corruption, as it must have been, if used corruptly to influence the election, with all these shrewd opponents of Mr. STEPHENSON intent upon making a case against him, with three years to work in, going, as they did, to Chicago to locate evidence; going, as they did, to the northern part of the State to locate evidence, spending money, as they did, to ascertain the facts—if after these two or three years of this investigation there could not be produced before this committee or before the Senate one single instance where any man was shown to have been corrupted or bribed, it must be because those instances do not exist. I undertake to say, without fear of successful contradiction, that there can not be found in this testimony an authenticated case of a single voter who was bribed or corrupted at that election—not one.

Mr. President, much has been said with reference to the money—

Mr. OVERMAN. I should like to ask the Senator a question. He spoke of an investigation going on three years prior to the Senate investigation. Who made that investigation?

Mr. SUTHERLAND. That investigation was made by the Wisconsin Legislature. We have the volumes here; the testimony was all taken, and was before our committee. Much of it is quoted in the record of our hearings.

Mr. OVERMAN. What was the finding of the Legislature of Wisconsin?

Mr. SUTHERLAND. There were two findings, as I recall. The first finding exonerated Senator STEPHENSON. The next investigation broke up in a row—part of the members of the investigating committee found against Mr. STEPHENSON and a part of them found for him.

Mr. OVERMAN. The Senator says that Senator STEPHENSON's own legislature has exonerated him?

Mr. SUTHERLAND. That is my recollection about it.

Mr. POINDEXTER. Can the Senator refer to the evidence of that?

Mr. SUTHERLAND. No; I can not. I am simply stating it from recollection.

Mr. POINDEXTER. I think the Senator is mistaken in regard to that. The report of the committee shows that the joint committee of the legislature which investigated the case simply disbanded without making any finding at all.

Mr. SUTHERLAND. My recollection is—and I only speak from recollection—

Mr. OVERMAN. Has there been any finding of his own legislature condemning him?

Mr. SUTHERLAND. I say a part of the members of the legislature found against him, and it was upon their report that this investigation was ordered. As I recall, their report was sent to the governor, and the governor, in turn, transmitted it to the Senate, and upon that this investigation was ordered. However, I have not that matter clearly in my mind; but I will be glad to look it up when I conclude my remarks and give the Senator the benefit of my investigation. I am told that the committee consisted of 8; that 5 were in favor of exonerating Senator STEPHENSON; and that 3 were against him.

Now, Mr. President, I come to the question of the money paid to the candidates for the legislature. There were three of them who were elected. They were Bancroft, Reynolds, and Wellensgard. It is insisted that the payment of money to these members of the legislature must have been corrupt, because it is said that we can not separate the expenditure of the money for the benefit of STEPHENSON from the expenditure of money for their own benefit, and that, therefore, their votes must have been corruptly obtained by the payment of these sums of money to them.

In the first place, I want to inquire who these men were. Mr. Bancroft had been a member of the legislature before, I think, for several terms. Mr. Reynolds had also been a member of the legislature before, and so had Mr. Wellensgard. Mr. Bancroft is now the attorney general of the State of Wisconsin, a man of standing, of good repute, of substance and property, against whom, so far as I know, no word of criticism has ever been uttered. He was elected by the State of Wisconsin attorney general after all these facts had been made apparent.

Mr. Reynolds is a well-to-do man, a man of respectability in the community in which he lives and has been a resident of Wisconsin for a great many years. The same is true of Mr. Wellensgard. Not one word has been or could be breathed against the good repute and the good standing of these three men. There was paid to Bancroft the sum of \$250; there was paid to Reynolds the sum of \$180; there was paid to Wellensgard the sum of \$250.80—an aggregate amount of \$680.80.

Senators who have spoken upon the other side of this question would have us believe that out of an expenditure of \$107,000 the attorney general of the State of Wisconsin was bought with a contribution of \$250, to expend partly for his own benefit and partly for the benefit of Senator STEPHENSON; that this other candidate for the legislature, Mr. Reynolds, was purchased by giving him the sum of \$180, to expend in the same way; and that Mr. Wellensgard was purchased for the sum of \$250.80. To my mind the mere statement of the proposition shows its utter absurdity. Can anybody pretend that men of this character would have sold their votes for the use of this comparatively trifling sum of money? Not only that, but every one of these men, as the testimony clearly shows, had been a friend of STEPHENSON of many years' standing. Each of them had been in the legislature of 1907, and each of them had supported STEPHENSON for the United States Senate in that legislature. Presumably, as friends of many years' standing, having voted for him in the preceding election less than two years before, they would have supported him in the next election. It seems to me that it is perfect and utter nonsense to insist that their attitude or their votes could have been affected in the manner indicated.

Mr. POINDEXTER. Will the Senator yield to me for a question?

Mr. SUTHERLAND. I yield to the Senator.

Mr. POINDEXTER. Referring to the fact that these members of the legislature had supported Mr. STEPHENSON in the previous election, and consequently that it was to be expected that they would support him in this election, is it not true that there had been a complete change in Senator STEPHENSON's political relations with the factions of his party in the State between those two elections? In the first election he and what was called the La Follette wing of the party were in agreement, while in the second election they were not in agreement. So it does not necessarily follow that men who supported him in the first election would support him in the second.

Mr. SUTHERLAND. Oh, yes. Mr. President, Senator STEPHENSON in prior elections had supported the so-called La Follette wing of the Republican Party, and the so-called La Follette wing of the party had reciprocated by declining to support STEPHENSON; but these men did not belong to the La Follette wing of the party. Each of them testified emphatically to the effect that he had not only been a friend of long standing and

that he had voted for Mr. STEPHENSON in the preceding election, but that he was a supporter of his in that election, intended to vote for him in the legislature, and that the payment of this money had absolutely no influence upon his vote. Why should we assume the contrary of what these men have said, particularly in the absence of any testimony whatever to that effect? There is a letter from Reynolds, which was published in February, 1908, long before this primary election, in which he declared himself for STEPHENSON to succeed himself. That letter you will find printed at page 1248 of the hearings. It was published in the Milwaukee Free Press of the date to which I have called attention.

Each of these men testified—and there was no contradiction of their statements—that every cent of this money was expended in the interest of STEPHENSON's candidacy. The money paid to Reynolds, \$180, was paid to him specifically for the purpose of circulating STEPHENSON's petition in order that he might become a candidate before the primaries. Each of them went into details as to what the money was spent for. Taking them up separately for a moment, Bancroft, as I have said, received \$250. He testified that he was reluctant to take it and did not want to be bothered with the matter at all. Here is his testimony. He was asked whether or not he had disbursed the money, as I recall, for Mr. STEPHENSON, and he answered:

Mr. BANCROFT. Absolutely every dollar of it. * * * I took it very reluctantly, simply because I was a supporter of Senator STEPHENSON and a personal friend and I did not like to refuse. I declined up to the last minute to have anything to do with it; but I finally took it to disburse in a certain way, which I have indicated, simply because I did not want to refuse an old friend or his managers to do what I could for him, because I was in in favor of his election.

He testified that he kept this money in a separate drawer in his safe, and, with the exception of \$100 of it, which was paid to a man named Mehaffey, it was all disbursed for distributing literature. He gave forty or fifty dollars to one man named Francisco. At page 710 of the record he testified:

Mr. BANCROFT. He—

That is, Francisco—

put out several buggy loads of Stephenson lithographs, and the placards that they were sending out. They had a long, triangular, banner-shaped advertisement, with the Senator's picture on the top and some advertisement below. Then they had some large lithographs of the Senator, nearly life-size. I must have received several thousand of that kind of things. Buggy load after buggy load went out, and they were instructed to nail them up in every available place—on all the railroads, crossroads, cheese factories, creameries, etc., in the county.

Then he goes on to state in detail other sums that were paid. At page 722, summing up, this appears:

Mr. LITTLEFIELD. As I understand it, with the exception of the money which you gave to Mr. Mehaffey, who resides in Richland Center, all of this money was disbursed mainly in connection with the publicity feature of the campaign?

Mr. BANCROFT. Absolutely every dollar of it.

Some criticism has been made with reference to the money given to Mehaffey. It has been said that Bancroft gave \$100 to Mehaffey to go out and spend as Mehaffey might think best. While that is true in a sense, yet the inference sought to be drawn from that statement is wholly unjustified, namely, that there is any probability that Mehaffey had spent it dishonestly. About that he testifies:

Mr. BANCROFT. He—

Speaking of Mehaffey—

was a wealthy man himself. He was merely a personal friend, and he knew how to do political work; at least, I supposed so. He had always gotten results; but his work was honorable and square, whatever it was. Senator SUTHERLAND. He was a man you knew well?

Mr. BANCROFT. Yes.

Mr. LITTLEFIELD. A man of high character?

Mr. BANCROFT. He was. He was a man I would trust with every dollar that I had in the world, for that matter, because he was a square fellow.

Reynolds received \$180, \$80 of which was paid by Mr. STEPHENSON in money and \$100 of it by check. This was spent, as I have already stated, principally for circulating nominating papers, and was expressly given by Mr. STEPHENSON for that purpose. I call attention to Senator STEPHENSON's testimony on page 38, without stopping to read it. Wellensgard received \$250.80, and expended the amount principally for circulating petitions, distributing advertising matter in behalf of Senator STEPHENSON, and to get the voters to the polls; and he stated positively that the total sum was expended in the interest of Senator STEPHENSON.

Mr. KERN. Mr. President—

The VICE PRESIDENT. Does the Senator from Utah yield to the Senator from Indiana?

Mr. SUTHERLAND. I do.

Mr. KERN. I will ask the Senator if Senator STEPHENSON's expense account, which he swore to, does not state that the total

amount paid in the State for getting signatures to nomination papers was only \$225.06, and whether the total amount paid throughout the State for posting and distributing lithographs was not stated to be only \$834?

Mr. SUTHERLAND. No, Mr. President; the account does not state anything of the sort. The account does contain an item of expenditure for obtaining signatures such as the Senator calls attention to; but it does not contain all the items of that kind.

Mr. KERN. Why does it not?

Mr. SUTHERLAND. Because much of it was spent in the way I have indicated. Mr. Reynolds was given this money for that purpose. That does not enter into that item. The same is true with reference to lithographs; the amount Mr. Bancroft expended for that purpose is not included in that item. It is simply one item, and the other items are included in the large sum that covers the general organization expenses, as I shall attempt to show a little later.

Mr. KERN. Does not this purport to be a correct statement of the various items of expenditure?

Mr. SUTHERLAND. Why, certainly.

Mr. KERN. Is it not so sworn to by the sitting Member?

Mr. SUTHERLAND. Certainly. But because I include in an expense account an item of \$200 spent for a certain purpose it does not follow that that is all I have spent for that purpose. It follows that I have spent that much in that item. The other sums are included elsewhere.

Mr. Wellensgard testified as I have said. I want to call attention to certain portions of his testimony, because he has been quite severely criticized by the Senator from Kansas [Mr. Bristow] and others.

I read from page 840:

The CHAIRMAN. Were these men employed to do anything in your behalf, or to help your candidacy?

Mr. WELLENSGARD. No, sir; I never paid them a cent.

The CHAIRMAN. Do you know whether or not they supported you?

Mr. WELLENSGARD. I do not; only I believe they were friendly toward me.

The CHAIRMAN. Do you know whether they were STEPHENSON men before this \$30 was paid, or the arrangement made to pay it?

Mr. WELLENSGARD. This man Burlingame?

The CHAIRMAN. Yes.

Mr. WELLENSGARD. Yes, sir.

The CHAIRMAN. How long had he been a STEPHENSON man?

Mr. WELLENSGARD. That I could not say.

The CHAIRMAN. When did you ascertain that he was a STEPHENSON man?

Mr. WELLENSGARD. I ascertained that from him at the time of it, or before this time when I had seen him. He had a brother that lived up in STEPHENSON's town, you know—Marinette—in the cigar business; and he had been up there and seemed to know Mr. STEPHENSON personally.

Again, at page 842, speaking of men that Mr. Burlingame had employed:

The CHAIRMAN. For what purpose were they employed by Mr. Burlingame?

Mr. WELLENSGARD. By Mr. Burlingame?

The CHAIRMAN. Yes.

Mr. WELLENSGARD. To get the voters out in their localities.

The CHAIRMAN. You mean, to induce them to go to the polls and vote?

Mr. WELLENSGARD. The town of Brookfield is partly on the north side of Green Lake—

I call particular attention to this because it shows the necessity of these expenditures:

The town of Brookfield is partly on the north side of Green Lake and part of the town is on the south side of Green Lake; and those voters living on the south side have to come to the east end of Green Lake and come over to the village of Green Lake to vote.

Mr. LITTLEFIELD. What is the distance?

Mr. WELLENSGARD. It must be 7 miles, maybe 8, around the end of the lake, to get over there. They were employed to take their teams and get out and get the voters over.

The CHAIRMAN. There is no way of crossing by boat?

Mr. WELLENSGARD. Yes; there is.

The CHAIRMAN. There is a regular line of boats, is there not?

Mr. WELLENSGARD. No; not regular, I do not think.

The CHAIRMAN. How far is it across the lake?

Mr. WELLENSGARD. I should think it is 4 or 5 miles.

And again, in reference to another transaction:

Mr. WELLENSGARD. If you will let me explain this, I can explain it on the same basis as the other.

The town of St. Marie is split up by Fox River. Part of it is on the north side of Fox River, and they have to come around and come across the bridge at Princeton and come over to the St. Marie townhouse and cast their votes, and the men that he employed were living on the north side and had to go around by Princeton and over to the St. Marie townhouse and vote, and they hired teams, or took their teams, and brought these voters over there, and were paid for that purpose, probably.

Mr. LITTLEFIELD. What is the distance?

The CHAIRMAN. Do you know whether or not they paid cash for any purpose whatever to these men that they brought over to vote?

Mr. WELLENSGARD. No, sir. I do not know, only what he told me.

The CHAIRMAN. Did he tell you that he did or that he did not?

Mr. WELLENSGARD. I think he did tell me that he would have to pay them something to take their teams away from the field and from their work and come around there. He did not expect to get them for nothing.

Mr. LITTLEFIELD. That is, the men that brought the voters?

Mr. WELLENSGARD. Yes; the men that brought the voters.

Mr. LITTLEFIELD. What was the distance?

The CHAIRMAN. Just a moment. I will yield to counsel in a moment.

Mr. LITTLEFIELD. Pardon me, Mr. Chairman. I wanted to get it right in the record at this point. That is all.

The CHAIRMAN. What is the question?

Mr. LITTLEFIELD. I simply wanted the distance these men had to travel.

What was the distance they had to travel, Mr. Wellensgard?

Mr. WELLENSGARD. I could not come within a mile, perhaps, or 2 miles of it. I should say perhaps 6 to 8 miles.

That was spent—what seems to be criticized here as an enormous sum of money—in one of these instances \$30 and in another \$25—the former for bringing voters either across the lake or around the end of the lake, 6 or 7 miles, and in the other instance for bringing voters a distance of from 6 to 8 miles. It seems to me that is not an extravagant expenditure when we come to understand the circumstances.

It has been said in this connection that a large number of men were brought down from the quarries to work at the polls; and as the Senator from Kansas became enthused upon that subject, I could see before me the vision of an army of men coming in endless procession from these quarries, all under the pay of Senator STEPHENSON. This was in the town of Berlin. Yet there were only 11 men, altogether, paid for work in any way about the town of Berlin, and part of them were not quarrymen. We do not know just how many there were, but it does appear from the evidence that some of them were farmers, and in all probability not more than three or four were quarrymen. And yet this instance of the quarrymen having been brought down to the polls and paid is stated as though they were brought down there in wholesale numbers, and as though paying them to work at the polls were a mere pretense in order to get their votes.

There was absolutely no reason why Wellensgard should have used any of this money in his own behalf. He was an exceedingly popular man in his county, as appears from the returns. There were cast in that legislative district, altogether, 1,511 votes. Out of those 1,511 votes Mr. STEPHENSON received only 330; but Wellensgard received 914—two-thirds of all the votes cast. It is perfectly idle to talk about this \$250.80 having been given to him for any such purpose.

At pages 868 and 869 of the record appears the testimony of Mr. Wellensgard showing the character of man he is. He says that he is the owner of a business that produces all the way from \$1,500 to \$15,000 a year; that he is practically the sole owner of it; that he is the owner of a number of farms, aggregating somewhere in the neighborhood of 700 acres, or lacking a few acres of that number, and the value of which runs all the way from \$5 to \$150 an acre.

The question is asked:

Did this \$250.80 that you received from the managers of the STEPHENSON campaign have any effect upon the vote that you afterwards cast for Senator?

He answers:

No, sir.

So I conclude, as it seems to me with perfect justice, that the use of this comparatively trifling sum of money, \$680 altogether, could have had no sort of influence upon these men subsequently elected to the legislature.

I come now to a very brief discussion of the primary election. And I may say that while I am not particularly an admirer of the primary system, I think any State in the Union that desires to adopt it, having a perfect right to do so, should be protected in the exercise of such right under the statute; that the voting at the primaries should be protected against fraud and corruption precisely as the voting at a regular election should be protected; and I think if corruption occurred at the primaries, or if voters were bribed at the primary election so as to affect the result, and the legislature which was subsequently elected because of the primary vote, elected the person who received a majority of the votes at the primary, that election by the legislature would be tainted by the corruption which occurred at the primary; because, as it seems to me, in that case the election by the legislature would stand with regard to the action of the primary in the direct relation of cause and effect. So I will not stop to discuss that question, but I shall assume that if it can be shown that corruption occurred in such a way as to invalidate the primary election, that would invalidate the election held subsequently by the legislature.

In the first place, I want to inquire as to how this money came to be paid over by Mr. STEPHENSON. Mr. STEPHENSON, in the first place, is a man of large affairs, a man of great wealth, a man of great business affairs. He has been in the habit of employing a large number of men. Of course, in a great business such as he has been operating he must of necessity trust his subordinate agents. I venture to say that

often he has given one of his agents carte blanche in some business affair, and probably has intrusted him with a large sum of money to expend. He can not look after the details, and so when it came to this election and he was informed that under the primary system it would be necessary to make an organization and to spend a good deal of money, he proceeded as he had been in the habit of doing. Whether that was the right way to proceed or not I shall not stop to inquire, but evidently it was the fact.

Whom did he employ? He did not go out and employ some politician, some ward heeler, as some of the statements here would tend to suggest; but he employed reputable business men, Mr. Puelicher, cashier of a bank, a man of excellent standing in the city of Milwaukee, and Mr. Edmonds, a business man of large affairs and himself a man of wealth and standing. They were his two principal managers. Sacket was the office man, but Puelicher and Edmonds were the two managers of this election.

Criticism has been made with reference to the manner in which the account was handled at the bank. There was nothing extraordinary about that. Mr. STEPHENSON, as a matter of fact, had no account at this bank. He had with the officers of the bank certain sums of money which they were investing for him, and as the money would come in from the investments they did not deposit it to an account, but kept it in the form of a cashier's check and paid it over to him whenever he desired, sometimes keeping it for some time.

At the time Mr. STEPHENSON undertook to become a candidate he had with the cashier of this bank, I think, the sum of \$30,000; and having made Mr. Puelicher his financial manager, he told him to make use of that money; and the account was kept at the bank after that in precisely the same way as it had been kept for months and perhaps years before. There was no change at all in the situation.

It has been said that the money was paid out without any record being kept. On the contrary, every dollar that was paid out by Mr. Puelicher is represented by a cashier's check. Mr. Puelicher so stated, and offered to bring the checks before our committee. Every dollar of it was represented by a cashier's check. Of course, the money having passed into the hands of the subagents, they disposed of it in such manner as they saw fit, either by depositing it in a bank or by paying it out in cash; but the original expenditure, the payment of the money to the subagents, so far as Mr. Puelicher was concerned, and so far as the funds in his hands were concerned, was always in the form of a cashier's check; a record of it was kept, and there is undoubtedly a record of it there to-day in the books of the bank.

When Mr. STEPHENSON entrusted this sum of money to these managers, it was perfectly apparent to anybody who desired to be fair about this matter, that STEPHENSON was particularly solicitous that these men should keep within the law; because over and over again he said to them, when he would give money to them to be expended, "Now, keep within the law." Some criticism was made that when he was examined further he said he had in mind that they should not pay money to members of the legislature, and that he had nothing else particularly in mind; but he had generally in his mind that the sums of money that were intrusted to these agents should be spent honestly and lawfully. Mr. Edmonds testifies to that as do Mr. Puelicher, Mr. Sacket, and Mr. STEPHENSON.

As need of money arose, or, rather, as the agents insisted that they needed more money, he advanced further sums with great reluctance, rather protesting that they were spending too much money, and wanting to know the need of it. They explained to him that it was a big State; that a great deal of organization work had to be done; that he had a short time in which to do the work; and so, he finally acceded to their requests and advanced more money; but every time, as I have said, with perfectly apparent solicitude, he said to them, "Now, keep within the law." Nobody could have listened to his testimony, nobody could have listened to the testimony of these other men, without being convinced of their absolute honesty and absolute truthfulness.

These men testified before our committee, and testified before the legislative committee two or three years ago, prior to the time they came before our committee. If anything could be said against them, with Wisconsin full of opponents of Senator STEPHENSON, it is incredible that some testimony should not have been brought before us to show these men to have been untrustworthy; but to the contrary, they stood before that committee and they stand before the Senate honest, trustworthy, reliable business men, and their word ought to be taken.

Mr. POINDEXTER. Will the Senator yield for a question?

Mr. SUTHERLAND. Yes.

Mr. POINDEXTER. Are the men the Senator is now referring to the same men he referred to when he said that they had kept the money that Senator STEPHENSON had given to them to expend for his benefit?

Mr. SUTHERLAND. No; they are not the same men.

Mr. POINDEXTER. Who were the men, generally speaking, that the Senator was referring to as having kept the money?

Mr. SUTHERLAND. Mr. President, I had a note to speak of that a little later on; but perhaps I may as well do it now as at any other time.

Mr. position about that is this: I have been speaking about Edmonds and Puelicher, the two men who were the general managers, if I may use that term; and I say, without fear of successful contradiction from anybody, that these two men stand as high in the State of Wisconsin as any other men in it or out of it. There is no doubt about it.

Subagents were employed, quite a large number of them. To one man \$5,000 was given. He had eight counties to look after. To another man perhaps a thousand dollars or perhaps a few hundred dollars was given. They were selected in various parts of the State to look after a county or two or three counties. Some of those men gave us a straightforward account of how the money was expended and itemized every dollar of it to the entire satisfaction of the committee. Some of them did not. Some of them said, in a general way, that it was expended for this, that, or the other purpose; but they were unable to give us details—unable to give us the names of the men to whom it had been paid.

It seems to be claimed by the minority of this committee that because two or three or four thousand dollars was put into the hands of a man and he could not satisfactorily account for its expenditure it must be presumed to have been expended unlawfully; in other words, that because he did not tell us what he did with it, the presumption necessarily follows that he spent it corruptly. If these men spent the money corruptly, of course they were dishonest men; and if they were dishonest men, why does not the conclusion more naturally follow, particularly in view of the presumption that we are to assume the innocence of Senator STEPHENSON rather than his guilt, that the money never got out of the pockets of those men at all? Is it not as reasonable and as logical to conclude, when a thousand dollars has been given into the keeping of a man to expend, and he can not give an account of how he spent it, that he did not spend it at all, as it is to conclude that he spent it unlawfully? That is what I mean when I say that I am inclined to think that a good deal of the money which Mr. STEPHENSON's agents or managers intrusted to these subagents never was expended by them at all; and, as was suggested to me by one of my colleagues upon this side the other day, who had read over this testimony, perhaps instead of this having been a corrupt expenditure of money it was a corrupt failure to expend money.

I want very briefly now to call attention to some things that have been claimed by the minority with reference to this matter; and, inasmuch as the speeches which have been made in the main follow the minority views, I may use the minority views as the text of what I am going to say rather than quote from the speeches directly.

The minority views, I undertake to say in the very beginning, when compared with the evidence in this case, are unfairly colored and misleading. I do not mean consciously so; but, in fact, they are so. I want to read, first of all, the statement under the head of "Admitted facts."

The following may be taken as admitted facts in this case: Three men were selected as managers by Senator STEPHENSON; money was placed in their hands from time to time as called for to the amount of over \$107,000; they were not asked how they expended it, nor for what purpose; no accounting was requested; they paid it out in various sums to different individuals in different wards, precincts, and counties; large sums were paid to different individuals holding official positions, and to individuals recognized to be leaders, and to others of prominence in different organizations; no directions were given to these men how the money should be expended; no reports were required and no knowledge obtained as to how they spent the money or for what purpose; men were hired for the ostensible purpose of going over the country talking STEPHENSON and creating STEPHENSON sentiment; men, whose occupations led them into different sections of the country, were paid large sums of money for talking for STEPHENSON on their travels; men were paid three, five, and ten dollars per day to be at the polls on election day, or to haul voters to the polls; large sums were paid leaders in different wards and precincts to look after their wards and precincts; hundreds of dollars were spent for treating to cigars, liquors, meals, etc., as much as \$135 in one day by one man; money was paid to candidates for the legislature, at least three of whom were nominated and elected; detailed expenditures were not kept; memoranda were destroyed; records and papers concerning the campaign were shifted from one place to another—

And so forth.

Remember that the statements I have read are under the head of "Admitted facts," meaning, of course, that either Senator STEPHENSON, or at least the majority of the committee who reported in his favor, must have admitted the facts. The minority

do not say that these are the proven facts or their version of the proven facts; but they undertake to tell the Senate that, whatever else may be disputed, the facts that I have read are admitted. Now, I undertake to say that some of the so-called facts which are stated here are not only not admitted, but are contrary to the evidence; and that some of the facts stated here are colored in such a way that they are not admitted as they are intended to be construed by the minority views.

Now I take up the first statement:

No directions were given to these men how the money should be expended.

To whom does that apply? It either applies to these managers or to the subagents to whom these managers disbursed the money. If it refers to these general managers, the statement is absolutely contrary to the evidence. Senator STEPHENSON, first of all, testified, at page 23, as follows:

The CHAIRMAN. What authority did you give Mr. Edmonds in regard to expending money on your behalf?

Senator STEPHENSON. Only to keep within the law, and—

The CHAIRMAN. For what purpose did you authorize him to expend money on your behalf?

Senator STEPHENSON. Well, we had no organization when we started, and we had to get that—advertise, newspapers, and have men. We have got 71 counties in our State. We had to get somebody in every county to work.

Again:

The CHAIRMAN. What do you understand by the expression "making a canvass"?

Senator STEPHENSON. To make the canvass within the law.

The CHAIRMAN. What do you mean? What do you understand by "making a canvass within the law"?

Senator STEPHENSON. Well, not to furnish any money to anyone that was running for the legislature that might vote for me.

Mr. POINDEXTER. What page of the record does the Senator refer to now?

Mr. SUTHERLAND. That is at page 41.

Again, at page 101, I read from the testimony of Mr. Edmonds:

Senator POMERENE. Mr. Edmonds, when was it that Senator STEPHENSON first said to you that you should keep "within the law"?

Mr. EDMONDS. I could not be positive. I should say that in the conversation with me by phone from Marinette the night he asked me if I would assume control of the campaign, I wanted to know how far I should go into that, and I think at that time he mentioned it.

Senator POMERENE. What was said? Give us that conversation.

Mr. EDMONDS. Those were his words—"to keep within the law," if he used that term at that time, and I think probably he did.

Senator POMERENE. You talked with him later on that subject?

Mr. EDMONDS. I do not recall any particular time, but I think without question that phrase "to keep within the law" has certainly been used by him a good many times.

I now read from the testimony of Mr. Sacket:

The CHAIRMAN. What arrangement, if any, was there made with reference to the management of his campaign?

Mr. SACKET. Senator STEPHENSON asked me to do what I could to get the nomination papers, to get out the vote, and promote his interests generally, with specific instructions to keep within the law, whatever I did.

The CHAIRMAN. Was that statement made in the general terms in which you have expressed it, or was the law considered, and the question as to what would be "keeping within the law" discussed?

Mr. SACKET. He used the words, if I remember correctly, "Keep within the law whatever you do."

Again, on page 375 is the following:

The CHAIRMAN. What were those instructions?

Mr. SACKET. To do what I could to promote his candidacy and keep within the law.

The CHAIRMAN. Give us the conversation, as near as you can, the language used by Senator STEPHENSON in giving you such instructions.

Mr. SACKET. I can not remember the exact words of the conversation.

The CHAIRMAN. Give us the purport of it.

Mr. SACKET. The only part of the conversation that I do remember in exact language is that phrase "to keep within the law." The general purport of the conversation was that I go ahead and do what I could for him.

The CHAIRMAN. Within what law was it that you were to keep?

Mr. SACKET. He did not say. He simply said the law.

Senator SUTHERLAND. The suggestion to do specific work came from him?

Mr. SACKET. I do not think he was specific. He simply told me to go ahead and do what I could for him, and keep within the law. That is the substance of all he said.

With reference to subagents, to whom money was paid by Mr. Edmonds particularly, he testified as follows:

Senator SUTHERLAND. Do I understand that while you do not remember the name of the person or the particular conversation in any instance, in a general way you do remember that you admonished the people you employed, or rather, that you agreed with different people whom you employed as to the way the money should be expended?

Mr. EDMONDS. I should say this was more likely to have been the case, as I remember it. In talking with these men whom I employed—I would say they were men who were familiar with conditions, and familiar with the political situation and the laws of the State regarding the expenditure of money—I would hardly have told them not to expend money unlawfully unless in discussion they had suggested something that was unlawful, in which case I would have said so. It was not our wish or intention that any man should expend any money except in a lawful manner.

Senator SUTHERLAND. Did you, in a general way, state to the people what the money was to be used for?

Mr. EDMONDS. Yes.

Senator SUTHERLAND. You say in the case of Mr. Wayland it was understood that he was to employ speakers, to hire bands and halls, etc.

Mr. EDMONDS. Yes.

Senator SUTHERLAND. Now, while you do not remember the particular talk with any other particular individual, do you remember that, in a general way, you did state that?

Mr. EDMONDS. I should say in every instance I did go into the details of what would be done in this way.

Yet in the face of that testimony the minority in their views say that it is "admitted" that no directions were given to these men how the money should be expended. Again, the minority say:

Men were hired for the ostensible purpose of going over the country talking Stephenson, etc.

Why is the word "ostensible" put in there? In order to give that statement some sort of a sinister meaning. They were not employed for the "ostensible" purpose of going over the country talking for Senator STEPHENSON. They were employed for the real purpose of going over the country to do that, and that statement in the minority views under the head of "admitted facts" is so colored by the word "ostensible" that it carries an entirely false impression.

Again, it is said that—

Money was paid to candidates for the legislature, at least three of whom were nominated and elected.

I have already discussed that. The statement is made as though the money had been given to these candidates for the legislature for the purpose of influencing their votes instead of for a legitimate and proper purpose, as I have already shown.

Again, they say under this head of "Admitted facts" that "detailed expenditures were not kept," leaving it, of course, to be inferred that it is "admitted" that no detailed expenditures were kept. As a matter of fact, a very large number of the witnesses who testified before us as to the expenditure of this money gave the items with the utmost detail, furnishing every item. I will give to the Senate the names of several as shown by the record. There may be others in the record, but these I have gathered from it.

Mr. Van Cleave gave us a complete statement of exactly what the money he received was spent for. You will find that at pages 146 and 147 of the record. Mr. Wayland showed in detail what he expended his money for, at page 725; Overbeck, at page 834; Wellensgard, at pages 837 and 838; Beyer, at page 881; Wheeler, at pages 894 to 898; Eppling, at page 904; Morgan, at pages 927 to 932; Hulbert, at pages 954 and 955; Dresser, at page 1017; McMahon, at pages 1024 to 1026; Ham-bright, at pages 1064 to 1067; Ames, at pages 1185 to 1187; Russell, at page 1196; Puttall, at pages 1201 and 1202; McGillivray, at pages 1251 and 1252; Alexander, at pages 1288 and 1289; Knell, at pages 1767 to 1773; Reed, at page 1931; Hanson, at page 2004; Morley, at page 2006; and Orton, at page 2008.

Yet we are told by these minority views that it is an "admitted fact" that no detailed expenditures were kept.

They say again:

Records and papers concerning the campaign were shifted from one place to another.

A good deal has been said with reference to that.

Again, further on, and this seems to be a proposition that was peculiarly attractive to the minority of the committee, they say:

And when the committee of the general assembly started to investigate, local counsel for Mr. STEPHENSON had such records and correspondence as had not already been destroyed moved out of the State for the purpose of keeping them beyond the jurisdiction of the general assembly.

As a matter of fact, at the time those papers were moved out of the State Mr. STEPHENSON was here in Washington and never knew anything about it until he was present in Milwaukee, as the testimony shows. Why were they moved out? First of all Mr. Black, one of the counsel, testified:

I want to say in that connection, also, that Senator STEPHENSON was in Washington at the time and that I did not confer with him at all in relation to the matter.

Senator STEPHENSON testified:

Mr. LITTLEFIELD. Did you have any knowledge of the contents of the box or its reception at Marinette or any disposition of it until you saw the trunk in which the contents were brought in here at this hearing?

Senator STEPHENSON. No, sir.

Mr. LITTLEFIELD. Did you ever have any knowledge of the movement of the box or its contents between Escanaba and Marinette or Wells, Mich.?

Senator STEPHENSON. No, sir.

Mr. LITTLEFIELD. When did you first learn of that?

Senator STEPHENSON. After I came here—after the box came here.

Senator POMERENE. During this hearing?

Senator STEPHENSON. Yes. That is the first I ever knew about it.

Now, whatever was done, so far as this box of papers was concerned, was done long after the election. It was done during the time that the legislative committee was investigating the subject.

In the minority views this is stated:

And when—

Mark you, "when"—

And when the committee of the general assembly started to investigate, local counsel for Mr. STEPHENSON had such records and correspondence as had not already been destroyed moved out of the State for the purpose of keeping them beyond the jurisdiction of the general assembly.

That is stated as though when that investigation started that was done. As a matter of fact, it was not done until long after the investigation had been under way, and the reason for it is stated by Mr. Black at page 1794:

My object in doing that was not that I feared there was anything in the correspondence that would be damaging to Senator STEPHENSON's case, but I was influenced by the fact that a lot of correspondence from all over the State, written by various people—although I did not know exactly what it was—might contain things that would cause trouble and jealousy, so that people would have each other by the ears; and I did not think it was proper that that senate committee should have it for that purpose. I was convinced that they would use it for that purpose or any other they saw fit. This was immediately after this Wagner episode, as I stated.

The Wagner episode was a frame-up, by which it was attempted to show that certain members of the legislature had been bribed. Wagner testified that he overheard a conversation in the hotel in Milwaukee through a transom. He gave the room numbers. When the committee went to look at the situation they found there was no transom there at all, and Mr. Wagner has since been serving a term in the penitentiary for perjury in that connection.

So Mr. Black, after that sort of thing had developed, and he thought they were prodding into this matter for the purpose of creating a political disturbance, and without consulting STEPHENSON at all, had these letters sent away. But, as a matter of fact, the box containing all the papers and letters was brought to this committee, and the committee went through them, and they are able to say to the Senate that from the beginning of the correspondence and papers to the end there is not one single word that indicates any culpability of any sort or description, so far as Mr. STEPHENSON or any of his agents are concerned. Yet much is made of that episode.

I could go on. The reference to Mr. Stone is misleading. They speak all the way through as though Mr. Stone had been employed by Mr. STEPHENSON. For instance, one of the statements is that—

Senator STEPHENSON personally directed that \$2,500 be turned over to Stone.

As a matter of fact, Mr. STEPHENSON did not direct anything of the sort. Mr. STEPHENSON did not know anything about it, so far as this testimony shows, until long after the primary election was over. Let me read you the testimony upon which that statement is based, and all the testimony upon which it can be based.

Mr. EDMONDS. But as to just how far that went I am not positive now. I do not want to do Mr. STEPHENSON an injustice by saying that he made it if Mr. Stone reported that that was the amount agreed upon when we talked.

Senator SUTHERLAND. Then I understood you to say that you do not know why it was \$2,500 rather than some other sum?

Mr. EDMONDS. Except that that was the amount that Mr. Stone thought was advisable to put in his hands; that he could use to advantage or because of the information received from Senator STEPHENSON; which I am not sure.

Upon the statement of a witness that he is not sure that a certain fact occurred it is stated in the minority views that it actually did occur.

But we do not stop there. When Mr. Stone was upon the stand he explained exactly how this \$2,500 was paid, and here is the testimony:

Mr. LITTLEFIELD. Were you or were you not at that time a supporter of his?

That is, at the time the money was paid.

Mr. STONE. Yes, sir.

Mr. LITTLEFIELD. State briefly just what conversation you had with the Senator.

Mr. STONE. I dropped into his office and shook hands with him, and asked him if the report was true that he was a candidate for reelection. He said he was. Then—I do not know; the ordinary conversation took place that one would naturally have under those conditions, and before I left I told him that what little I could do I would be glad to do for him.

Mr. LITTLEFIELD. Was anything said in that conversation, either by yourself or by the Senator, with reference to any sum of money that you might receive for use in the campaign?

Mr. STONE. No, sir.

Mr. LITTLEFIELD. No sum of money was mentioned?

Mr. STONE. No money was mentioned at all.

Mr. LITTLEFIELD. The next thing that occurred was the conversation that you had with Mr. Edmonds in Milwaukee?

Mr. STONE. Yes, sir.

Mr. LITTLEFIELD. As the result of that conversation Mr. Sacket brought in \$2,500 and gave it to you?

Mr. STONE. Yes, sir.

Mr. LITTLEFIELD. Do you recollect whether or not, in the course of that conversation, you discussed the question as to how much you could use in the campaign, or how much it was suggested that you might use?

Mr. STONE. I think we agreed upon—

Senator POMERENE. You are directing his attention now to a talk with Mr. Edmonds?

Mr. LITTLEFIELD. Yes. Did you not suggest to Mr. Edmonds the amount of \$2,500?

Mr. STONE. I think so.

Mr. LITTLEFIELD. You suggested that to him, and after discussion that amount was fixed upon? Is that correct?

Mr. STONE. Yes, sir.

Mr. LITTLEFIELD. That was the first time, was it not, that the amount you were to receive was suggested or discussed by anybody?

Mr. STONE. That was the only time.

Mr. LITTLEFIELD. Did you have any conversation at all with the Senator except the conversation that you have now testified to that occurred in Marinette?

Mr. STONE. No, sir.

Mr. LITTLEFIELD. That was the only time you saw him during the campaign?

Mr. STONE. Yes, sir.

Mr. LITTLEFIELD. And it was the only talk you had with him? Is that right?

Mr. STONE. Yes, sir.

So instead of the testimony showing that STEPHENSON had paid this money over to Stone, or authorized it to be paid over to him, the testimony shows precisely the contrary.

Now, certain things are said with reference to the organization methods. I find on page 7 of the minority views the language "Manager Edmonds's description of the organization methods," and under that head they make a quotation from Mr. Edmonds's testimony, as though that told the whole story. In that quotation it is said:

The CHAIRMAN. Now, what do you mean by "organize" when you use the term in connection with the payment of this money?

Mr. EDMONDS. I mean that the man employed by me to look after Dane County and get out the vote—the largest possible vote—for Senator STEPHENSON was given latitude, usually guided by his judgment alone, as to what was to be done (p. 77).

The CHAIRMAN. Particularize the word "organize" and tell me what constituted organization.

Mr. EDMONDS. My idea in a county that was thoroughly organized would be, in the first place, to get out the advertising that we sent to the county—have it fully distributed and posted—and after that was done he was to put in his full time going around the county, and he was paid for his services going around the county and interesting men of influence in the different localities to interest their friends so as to get out a full vote for Senator STEPHENSON election day. In some instances still further organizing, if in their judgment that was wise, by getting out the vote, by hiring teams, etc., for getting men to the polls (p. 78).

As a matter of fact, the other testimony shows that he included within that term the following things as well, namely:

The meeting of the criticisms and assaults upon Senator STEPHENSON by representatives of the other candidates, and procuring men to go out and meet the Republican voters and answer such arguments and criticisms; the expenses of procuring a list of names of Republicans in the various sections for the purpose of enabling those at the headquarters to mail literature in the interests of Senator STEPHENSON, hiring of teams and men, automobiles and men, to get voters to the polls on election day who otherwise would not be likely to go; the expense of a final canvass to ascertain, so far as they might be able, the men to be brought home and for whom teams would have to be sent on election day; the employing of workers at the polls and to check up the votes and send for those who had not voted.

You will find testimony to that effect on page 333 and in other parts of the record. So I might go through these minority views in further detail, but I have already occupied so much time that I must not do so. But I will stop to call attention to one other statement. On page 18 of the minority views a letter is quoted, written to Mr. Wheeler by C. B. Salmon:

MY DEAR WHEELER: I inclose bills in blank, which are correct. All the men and rigs were in the exclusive use of STEPHENSON, etc.

In this quotation the minority has italicized the sentence "All the men and rigs were in the exclusive use of STEPHENSON," and then a postscript is also printed by the minority in italics—

We should pay these men in the morning.

Why are the words quoted in italics? In order to suggest some sinister meaning, of course. The words themselves will not bear any improper construction; but if Senators here had seen Mr. Wheeler, as the committee did, and had heard Mr. Wheeler, as the committee did, they would have realized that a man of his standing and character could not have been involved in anything improper, as seems to be suggested by the gratuitous italics of the minority.

So they call attention to the liquor expense, and call attention to Mr. Sacket's testimony that it was the custom in elections in Wisconsin to spend large sums of money in saloons for liquor, leaving it to be inferred that Mr. Sacket followed that custom, when, to the contrary, Mr. Sacket emphatically testified that he instructed his men not to follow it. He said, "I did not tell them not to spend a dollar in the saloons, not to pay for a friendly drink, but I expressly instructed all of them," and Mr. Edmonds did the same, "not to carry on a saloon campaign."

As illustrating that, and I think I am now through, so far as these details are concerned, I call attention to the testimony

of Mr. Wayland, at page 730. Mr. Wayland was one of the young men severely criticized by the Senator from Kansas [Mr. Bristow]. Mr. Wayland, after testifying that he had spent some money for drinks, cigars, and so on, said:

The CHAIRMAN. Did you pay for it out of the money furnished you for campaign purposes?

Mr. WAYLAND. Yes; and I reported afterwards to Mr. Edmonds what I was doing, and he requested me to discontinue that kind of campaign immediately.

The CHAIRMAN. When was that?

Mr. WAYLAND. I think he came home about the next Saturday night.

A little further on he said:

The CHAIRMAN. Then up to the middle of August you had been proceeding as you have described?

Mr. WAYLAND. Yes; I proceeded clear through to the end—I mean the way I conducted the campaign. I endeavored to show the way I conducted the primary.

The CHAIRMAN. I want to know when you ceased treating.

Mr. WAYLAND. I ceased going to saloons or buying anything in the saloons.

The CHAIRMAN. Where did you buy it—in the grocery store?

Mr. WAYLAND. No; they were saloons in grocery stores.

The CHAIRMAN. Did you cease buying drinks for these people who went to the grocery stores?

Mr. WAYLAND. Yes, sir.

The CHAIRMAN. Or cigars, or treats of any kind?

Mr. WAYLAND. I gave out cigars.

So I might go on at considerable length and refer to other parts of the testimony where it appears clearly that the managers for Mr. STEPHENSON discouraged and forbade from time to time the spending of money in the saloons. Of course, they could not control some man out in a remote county who happened to have some money in his hands, but so far as they could control it they undertook to prevent it.

Mr. Wayland, as I said, was severely criticized by the Senator from Kansas, but Mr. Wayland impressed me as an enthusiastic and a very clean-cut young man, and I think he so impressed the committee. He testified with perfect straightforwardness, and gave an itemized statement of every cent he paid out during the campaign, even to 15 cents paid for a cigar.

Mr. President, with one other thought I think I shall conclude. Every Member of the Senate who has practiced law understands how important it is in determining the facts of a case to see the witnesses and to hear the witnesses testify. Indeed, when a case where the facts may be reviewed is appealed from the nisi prius court, or where a motion is made for a new trial before a new judge who has not heard the original case, it is the habit of the court to say, "The trial judge heard these witnesses; he saw them; he was able to judge of their frankness and candor;" and wherever there is any conflict in the evidence, the court will not undertake to reverse the findings of the trial judge. The subcommittee that was appointed to investigate this matter proceeded to Milwaukee, and sat there, as I have said, week after week, hearing these witnesses, and they certainly had a better opportunity to judge of the character of these witnesses, of their frankness, their candor, and their honesty than other Members of the Senate who did not see or hear them. The report of the subcommittee is unanimous; in other words, every member of the committee who heard this case has reported in favor of Senator STEPHENSON's right to retain his seat; and it seems to me, if we assume honesty on the part of the subcommittee, that fact ought to be worth something.

Mr. President, twice in the lifetime of any man the repute in which he may be held by his fellow men becomes of supreme concern—once when in his youth, looking forward with glowing aspirations, his good name constitutes the spreading and sometimes the only sail which carries the unfilled craft of all his hopes to the open sea of opportunity; and again, when, in his old age, looking back upon generously gratified ambitions in the fading light of evening, with furled sail he slowly creeps into the harbor of eternal anchorage. I know not at which period the loss of an honorable reputation is more sorrowful; but youth has at least the future in which to struggle for rehabilitation, while old age can only stand hopeless and helpless before a tragic and conclusive finality.

Senator STEPHENSON has lived far beyond the span of life to which most men may look forward, and he has carried with him throughout all the years an untarnished character. He has to his credit an unusually successful and honorable business career. He has served his State as legislator, Representative, and Senator with credit and fidelity and unimpeached integrity. Yet a few more days and he must pass on, leaving nothing of permanent value behind him, unless it be the record of an honored and honorable name, and whether he may do that will depend upon the verdict soon to be rendered by this great tribunal.

I began and have continued the consideration of this case with a feeling of deep responsibility, because I have realized

that from the decision which we render there can be no appeal. Right or wrong, just or unjust, it becomes final and irreversible. It is within our power to ignore all the rules of evidence and the established principles of law without which justice could not be done. We may render judgment, if we please, regardless of all these, and in no human tribunal can our findings be assailed; but, sir, whosoever shall consciously do this will in the high court of his own conscience forever stand impeached.

Sir, I do not know how it may be with others, but to me it has been a matter of profound satisfaction that after patiently listening to all the testimony and after carefully considering all the facts and the law, I have found myself able with a clear conscience to reach such a conclusion that through no vote of mine will the venerable Senator from Wisconsin be driven from his seat in this Chamber with the great burden of his more than four-score years increased beyond endurance by the crushing weight of dreadful and overwhelming shame.

Mr. O'GORMAN. Mr. President, I yield to no Member of the Senate in sympathy for the Senator from Wisconsin, but much as I sympathize with him in his present unfortunate situation, I can not permit my sympathy to take the place of my duty to my country and my oath of office.

Stripped of the verbiage that obscures and beclouds the issue in this matter, the great question before us is, whether any citizen of the United States can purchase a seat in this body and be permitted to enjoy the object of his purchase. It has been suggested that, notwithstanding this expenditure of a vast sum of money that appalls and shocks the conscience, there is no proof of its corrupt use, and that the guilt of the respondent is not established beyond a reasonable doubt. That, sir, is a rule applicable to the administration of criminal law and has no place in the deliberations of this body. Under the Constitution our sole function as judges is to determine whether a Senator coming with the credentials of a State has secured his place by corrupt means and methods, and whenever the evidence submitted to us justifies our belief that he has secured his place by such means, we are restrained by no other consideration, but are justified in determining that he does not hold his seat by a clear title.

When I read in the report of the committee the declaration that the expenditures made by Mr. STEPHENSON "were in violation of the fundamental principles underlying our system of Government, which contemplated the selection of candidates by the electors and not the selection of the electors by the candidate," I viewed that statement as one which would meet with the hearty approval of every person familiar with the record; but I have found difficulty in reconciling it with the conclusion reached by the committee—to the effect that Mr. STEPHENSON may nevertheless retain his seat. I can only account for the apparent inconsistency between the statement to which I have just invited the attention of the Senate and the conclusion of the committee because of an error into which, inadvertently, the Senator from Idaho fell when he declared:

It seems from this consideration of the question we must conclude that the direct-primary proceedings can not be held to affect the validity of an election by the legislature.

The evidence, without contradiction, is that \$107,000 was put into the primary contest by the Senator from Wisconsin, and the extraordinary proposition has been advanced in this body that, inasmuch as a primary election is unknown to our Constitution, no matter what may have been the conduct of a candidate for public office at the primary, the fraud and the infamy of his conduct can not be held to be sufficient to impeach his title to the Senatorship, which came to him as a consequence of the wrong and the corruption at the initial stage of his effort to secure the office. I am glad to recognize, however, that in the discussion of this question to-day and yesterday scarcely a voice has been raised in vindication of that proposition.

I assert that the true rule, a rule recognized by nearly every Senator who has discussed this question, is that even though a primary contest be unknown to the Constitution, corrupt conduct, the corrupt purchase of influence, will invalidate the title of a Senator when his subsequent election is directly traceable to the result of the primary.

The Senator from Ohio [Mr. POMERENE] and the Senator from Utah [Mr. SUTHERLAND], while agreeing in the conclusions of the report of the Senator from Idaho [Mr. HEYBURN], fell into an error, which I think can not be vindicated. It is stated on page 28 of the report:

Mr. STEPHENSON's campaign managers gave to John W. Stone, the game warden of the State, \$2,849.50 for campaign purposes. This was distributed among a number of the deputy game wardens; he retained some portion of it himself, and in testifying before the legislative committee, falsely stated the amount he had paid out.

Section 990-28 (sec. 28, ch. 363, 1905) provides:

"No officer, agent, clerk, or employee under the government of the State shall directly or indirectly solicit or receive or be in any manner concerned in soliciting or receiving any assessment, subscription, or

contribution, or political service, whether voluntary or involuntary, for any political purpose whatever from any officer, agent, clerk, or employee of the State."

And the comment of the Senators subscribing to this part of the report is as follows:

This statute makes it an offense for any officer, agent, clerk, or employee under the government of the State to solicit or receive any assessment, subscription, or contribution, or political service from any officer, agent, clerk, or employee of the State. It is clear that this statute was not violated by Senator STEPHENSON, since he was not an officer, agent, clerk, or employee of the State. Moreover, the statute makes it an offense on the part of the recipient of the fund only. No offense is committed by the donor.

There is no doctrine better settled in the law of all the States and Nation than that any person aiding, abetting, procuring, or inducing another to commit a crime becomes liable with the principal as an accessory; and, therefore, while it was clearly criminal for Mr. Stone to accept this money from Mr. STEPHENSON for the purpose indicated, Mr. STEPHENSON himself was a party to the wrong and liable to indictment and prosecution under the laws of his own State.

It has been stated during the day by the Senator from Utah [Mr. SUTHERLAND] that there was no evidence that Mr. STEPHENSON knew of Mr. Stone receiving this large sum of money for the purpose indicated. I call attention to the record, at page 300, where the witness Edmonds states as follows:

Senator SUTHERLAND. When was it you gave Mr. Stone the \$2,500, before or after this conversation?

Mr. EDMONDS. After.

Senator SUTHERLAND. After?

Mr. EDMONDS. That is, I think the same day, as I recall.

Senator SUTHERLAND. How did you fix the amount at \$2,500?

Mr. EDMONDS. My recollection is that either Senator STEPHENSON informed me, or else Mr. Stone informed me, that that was the amount to be paid him.

Senator SUTHERLAND. Which was it?

Mr. EDMONDS. I can not recall now.

Senator SUTHERLAND. Did you make the arrangement or did Mr. STEPHENSON make it?

Mr. EDMONDS. My present recollection is that Mr. STEPHENSON made the agreement with Mr. Stone; Mr. Stone had seen him.

Mr. President, I do not propose to review the evidence. That has been done by Senators on both sides of this question. I shall not suggest that the Senate of the United States is on trial to-day, but I do say that your vote on the pending resolution will have an influence for good or evil that will survive our terms of service in this body. We may deceive ourselves by a vote to-day. We can not deceive the people of the country. No impartial, untrammelled intellect can review the record in this proceeding without being satisfied that in the primary in the State of Wisconsin in the summer of 1908 there was nothing but a contest of money on both sides.

It has been stated by the Senator from Utah, within a few moments, that the Senator from Wisconsin is a man of large wealth; that he has had an honorable career. In all of his career that is creditable I rejoice. But I tremble for the fate of this Government when it becomes the accepted belief in this country that a man who has accumulated his millions may purchase a seat in this body and be immune to the criticism of the land.

It is not disputed, I apprehend, that were it not for the expenditure of this \$107,000 the State of Wisconsin would not be represented in this body to-day by the junior Senator. For more than three years the subject which we are now discussing has been agitated in that Commonwealth. Effort after effort has been made to investigate it. The foulest page in the history of popular government in this country is the record of the Wisconsin primaries in September, 1908. There was a riot of crime and venality and corruption.

What was \$107,000 expended for? There were no public meetings. There were no champions of popular causes. There was no discussion of great fundamental principles of government. It occurred to the Senator from Wisconsin that he wanted the distinction of a seat in this body, and he intrusted the procuring of the place to two or three of his friends. It is conceded that at least \$107,000 was spent at the primary, nominally to create a sentiment favorable to the gentleman, to accelerate a sentiment that might bring him to the Senate.

I know of nothing more conducive to despair of the future of our country than to have it recognized—and there are many who recognize it now—that however corrupt and foul and venal the means employed to secure it, the holder of a seat in this body may retain it.

It has been suggested that we have not seen the witnesses. At times it is very important, in passing upon conflicting evidence, to see the witnesses. But here we have the conceded fact that this large sum of money was used for this purpose. It is not fair to say that it has been claimed here that its use raises a conclusive presumption that it was improperly used. But, having given Mr. STEPHENSON his opportunity to explain the

expenditure, the inference to my mind, from the record as it stands, is that a large part of that money was used for corrupt purposes. Much as I should prefer to see him an honored Member of this body, with his right to a seat unchallenged, I can not vote for his retention.

Mr. POINDEXTER. Mr. President, the principal parties who are deeply and profoundly interested in this proceeding are the Senator from Wisconsin, the Senate itself, and the Nation. Of course, in the consideration of a question which is of such deep significance to any individual, particularly one of our associates, the natural feelings of sympathy and personal regard which affect us constitute a considerable difficulty in the way of a logical and judicial determination of the question. This gives a certain advantage to the individual who is interested. To accentuate that difficulty, the feelings of the committee which investigated the case, and of the Senate, which is now to finally determine it, have been appealed to insistently and persistently and eloquently by counsel for the Senator from Wisconsin and by Senators who have advocated his cause on the floor of the Senate; and this has induced me to consider from the standpoint of the Senator from Wisconsin, if possible, the situation in which he is placed.

I have just listened to the eloquent peroration of the Senator from Utah, describing the effect upon the Senator from Wisconsin in his old age of being excluded from the Senate upon a charge of fraud and corruption in his election. But, Mr. President, it is not the action of the Senate that will fix the estimation in which the Senator from Wisconsin will be held by the people with whom he will have to associate; it is the facts disclosed by the evidence and within the knowledge of those people, his associates.

If the testimony in this case shows, whether altogether through his personal participation or partly through his personal action and partly through that of his agents, that he purchased an election to the United States Senate, or purchased the nomination at a primary which he himself admits was practically equivalent to an election to the United States Senate—because the party which bestowed upon him that nomination was in the overwhelming majority in his State—and the Senate, through any feeling of sympathy or personal regard for the Senator from Wisconsin, should be influenced to decline to find that the election was void because it was purchased, I do not apprehend that it would afford any satisfaction to the Senator from Wisconsin. For the action of the Senate in direct contradiction to the record which has been made in the case would create a feeling of resentment on the part of the people of this country, which would be continually aggravated at every legislative action, at every vote cast, by the Senator who holds his seat by such means. Whatever may be the verdict of the Senate, it is impossible for this body to control the verdict which the people of this country will render upon the evidence in the case. Whether we reach a favorable or an unfavorable conclusion, the case will be decided according to the evidence by the people of this country; and the estimation in which the Senator from Wisconsin will be held will depend upon what he did in this election far more than upon what conclusion the Senate may reach in its formal action of dismissal or retention.

The Senator from Utah has said that the Senators who heard the testimony are in a better situation to come to a conclusion than the other Senators, who were not members of the committee. After reading the conclusion reached by the Senators who heard the testimony, I must say that I listened with some astonishment to the speech of the Senator from Utah upon the floor.

I want to call the attention of the Senate, in order to refresh its memory, to the conclusions reached by the Senator from Utah and the distinguished Senator from Idaho who sits by my side, after having had the privilege of observing the witnesses and determining their credibility, and I want to appeal from the eloquent advocate here who appeals to the Senate not to fix a disgrace upon the aged Senator from Wisconsin to the judicial findings and conclusions of these same Senators who weighed the evidence and heard the witnesses.

The Senator from Utah, the Senator from Ohio, and the Senator from Idaho, the principal advocates of the Senator from Wisconsin in this proceeding, have found and recorded their opinion as follows:

Were it possible to hold that Mr. STEPHENSON was subject to the same restrictions under the laws of Wisconsin as a candidate for a State office, we would feel compelled to enter more fully upon the nature and character of the expenditures made by him and on his behalf during the primary campaign.

The amount of money expended by Mr. STEPHENSON, Mr. Cook, Mr. Hatton, and Mr. McGovern in the primary campaign was so extravagant and the expenditures made by and on behalf of these gentlemen were

made with such reckless disregard of propriety as to justify the sharpest criticism. Such expenditures were in violation of the fundamental principles underlying our system of government, which contemplated the selection of candidates by the electors and not the selection of the electors by the candidate.

Regardless of any statute requiring that strict accounts be kept of money expended by and on behalf of candidates, a candidate and every man representing him should know that public opinion would expect the parties to place and maintain themselves in a position so that if any of their acts were questioned they could justify such acts to the extent of giving every detail in regard thereto.

While I do not believe that the law of Wisconsin could constitute any man a candidate or place him in the position of and under the responsibilities of a candidate for an office over which the State had no control and which was not to be filled under any law of the State, yet I feel impelled to criticize the acts of those in charge of the expenditure of the money of men who are called candidates for the Senate, and especially of Mr. STEPHENSON, in the irresponsible and reckless manner in which they disbursed the money furnished them by Mr. STEPHENSON during the period of the primary campaign.

The failure to keep detailed accounts, the destruction of memoranda, the shifting of records and papers concerning the campaign from one place to another, the adoption of mysterious methods and roundabout ways in regard to matters that might just as well have been performed in open daylight in the presence of the people, would go far toward creating the impression that there was some occasion for Mr. STEPHENSON's representatives to avoid candor and to obscure conditions.

That is on page 18 of the report of the majority of the subcommittee.

Mr. HEYBURN. Mr. President—

The VICE PRESIDENT. Does the Senator from Washington yield to the Senator from Idaho?

Mr. POINDEXTER. I yield to the Senator from Idaho.

Mr. HEYBURN. I rise to suggest a correction of the Senator. It is not any part of the report of the subcommittee. It is a part of the individual views filed by me as a member of that committee, and is not a part of the report.

Mr. POINDEXTER. In reply to that, Mr. President, I desire to call attention to page 30 of this document, No. 349. I will not call it a report, although it calls itself a report. The members of this subcommittee were the Senator from Idaho, the Senator from Ohio, the Senator from Utah, and the Senator from Kentucky.

Mr. HEYBURN. The two Senators from Kentucky.

Mr. POINDEXTER. Were they both on the subcommittee?

Mr. HEYBURN. Yes.

Mr. POINDEXTER. So far as I am advised, they took no part in the proceedings and did not sign any report. At least, one of them did not sign any report.

On page 30 of the same document the Senator from Ohio and the Senator from Utah use the following language:

We heartily approve these words of Senator HEYBURN.

They then quote the language which I have just read, which was reported and filed in the Senate by the senior Senator from Idaho, along with the formal report of the committee, and all printed in this document as the report of the members of the committee. The language which I have read is the findings reported to the Senate by at least a majority of the subcommittee.

In addition is the following language, on page 19 of this document:

Were a candidate for a State office in Wisconsin to conduct a campaign in the manner in which the campaign of Mr. STEPHENSON, and of other men who sought election to the United States Senate, were conducted, it would be very difficult to justify such conduct under the laws of the State.

Mr. HEYBURN. Mr. President—

The VICE PRESIDENT. Does the Senator yield?

Mr. POINDEXTER. I yield.

Mr. HEYBURN. I know the Senator would like to be accurate. The report of the committee is found on pages 8 and 9. Nothing beyond that is the report of the committee. It covers about half a page. The Senator has been reading the individual views of members of the committee; but the Senate is not dealing with the individual views of members of the committee; it is dealing with the report of the committee.

Mr. POINDEXTER. Mr. President, I think that distinction is utterly immaterial. I am reading the views in writing, filed here as a return to the Senate and a report to the Senate by the several members who signed it.

Mr. HEYBURN. Mr. President, the Senator will never have an opportunity to vote upon those views. When he votes, it will be upon the report of the committee, and not upon the individual views of the members of the committee.

Mr. POINDEXTER. My understanding was that when we voted, we would vote upon the motion of the Senator from Idaho; but I do not care, Mr. President—

Mr. HEYBURN. But, Mr. President, let us be fair. The motion of the Senator from Idaho is not directed to the individual views of members of the committee, but is directed

solely to the report of the committee, on pages 8 and 9 of the record.

Mr. POINDEXTER. I do not care whether this finding is called "the individual views of the members of the committee" or whether it is called "the report of the committee." It is at least a statement returned here and signed by a majority of the subcommittee and by the Senators to whom I have referred, who are now defending a seat obtained by methods which they themselves have characterized in the language I have read.

I want, further, to read into the RECORD, in view of the argument which has been made this afternoon by the Senator from Utah, the language reported in writing by the Senator from Utah after he had had the advantage, as he says, of hearing and seeing the witnesses. It is found on page 26 of the report—or of the document, if the Senator from Idaho will pardon me. It is as follows:

We have no sympathy whatever with the expenditure of money in excessive amounts, whether in a senatorial or any other political campaign. That an expenditure of \$107,793.05 is an excessive amount to be spent in the candidacy for the office of United States Senator, which pays a salary for six years' service amounting to \$45,000, goes without question; that it is demoralizing and should be prevented can not be denied.

That is a part of a statement filed by the Senator from Ohio and the Senator from Utah.

Mr. HEYBURN. Mr. President—

The VICE PRESIDENT. Will the Senator from Washington yield to the Senator from Idaho?

Mr. POINDEXTER. I yield.

Mr. HEYBURN. It is not any part of the report of the committee. I refer the Senator from Washington to the CONGRESSIONAL RECORD of February 19, that being the day upon which the report was made, where he will find the report of the committee followed by the motion which I made that the report of the committee be adopted. It contains none of the statements to which the Senator has called attention. It stands under the rules of the Senate as the only and the complete report. If the Senator desires to use it, I have it at hand for his convenience.

Mr. POINDEXTER. I thank you very much, indeed. I probably will have occasion to use it.

Mr. JONES. Mr. President—

The VICE PRESIDENT. Does the Senator from Washington yield to his colleague?

Mr. POINDEXTER. I yield.

Mr. JONES. I simply want to suggest to my colleague, who probably has it in mind, that in what is called the report, which the members of the committee seem to be so insistent shall be termed the report, there is absolutely no reason given at all for the conclusion.

Mr. POINDEXTER. I am very glad my colleague has stated that fact. It is true. It is just a bare recommendation without any reason given or any finding of fact or conclusions of law.

Mr. HEYBURN. That is as it should be, Mr. President.

Mr. POINDEXTER. I will not stop now at least to discuss the ethics of reports. I do not understand that the Senator from Idaho denies that the language which I have just read is the language of the three members of the subcommittee whom I have named and filed in the document marked Report No. 349. It is not a part of the formal report, as the Senator says, but the views and conclusions of the Senators who made the report.

Mr. HEYBURN. Mr. President—

The VICE PRESIDENT. Will the Senator from Washington yield further to the Senator from Idaho?

Mr. POINDEXTER. I yield.

Mr. HEYBURN. I happened to express the same views in the remarks I made in support of the report. Had the document which the Senator refers to never existed he would have had the benefit of the wisdom of those views.

Mr. POINDEXTER. They are the views of Senators who have been very diligent in advocating the right of the Senator from Wisconsin to retain his seat. In other words, the Senators argue that a seat acquired in that way is a valid seat; that the Senate ought not and can not protect itself from membership acquired by means which can be characterized in the language which Senators have used, and which I have just read.

Mr. HEYBURN. Mr. President—

The VICE PRESIDENT. Does the Senator from Washington yield further?

Mr. POINDEXTER. I yield.

Mr. HEYBURN. I hope the Senator will allow me to make a suggestion. He has referred more than once to those who have spoken in support of the report as the advocates of Senator STEPHENSON. He would not like to be termed the "prosecutor" of Senator STEPHENSON. The term "advocate" has no place in

connection with this discussion. We are all here speaking as Senators. No one will claim that the record shows that any member of the subcommittee was the advocate of Senator STEPHENSON in the investigation.

Mr. POINDEXTER. Oh, I am willing the Senator should criticize that word. I did not intend to use it in any offensive sense whatever. It is simply a word which describes the efforts of a Senator who, as a Senator, of course in a perfectly proper and legitimate way, contends in this forum that the Senator from Wisconsin, notwithstanding the methods which they have so characterized, is entitled to retain his seat—and, of course, if he is so entitled, then any State in the Union can fill seats in this body in the same way.

It so happens, Mr. President, that frequent reference has been made during this debate to the Lorimer case, and that the Senate is now in the unique and, so far as I know, the unprecedented situation of having the validity of the seats of three of its Members formally challenged. One reason why I refer to that is in order to make a comparison of the evidence in a case which has recently been thoroughly discussed in this body. A number of Senators have recorded, as shown by the CONGRESSIONAL RECORD and the Journal and the proceedings, that upon the evidence in the Lorimer case their judgment was that the election was invalid.

Now, what is the difference between the Lorimer case and the Stephenson case? One important difference I will state, and I am perfectly free to state it, because I concluded, upon the hearing of the discussion and an examination of the testimony in the Lorimer case, against the validity of his seat, and so voted.

I want to say that the principal difference between this case and that one is that there was a total failure in the Lorimer case to show that the Senator from Illinois personally participated in any way whatever in the corruption of the Illinois Legislature. I believed that the circumstances in the case justified the conclusion that he had knowledge of it, but there was a total failure of evidence, either direct or circumstantial, to connect him with the expenditure of the money or to connect any agent of his with the expenditure of the money in that case. The great question, which was more or less a mystery throughout its consideration, was, Where did the money come from, who furnished it, and what interests were they that sought so diligently to elect a Senator from Illinois?

In the Stephenson case there is no such mystery. There is no such difficulty. It is admitted by the Senator from Wisconsin, both by the statement which he filed and by the testimony which he gave before the committee, that not only was he personally cognizant of all these proceedings, but that the money which was used to corrupt the electorate of Wisconsin was his money; that he personally paid the money to the men who were selected by him to take charge of the various features of his campaign. There is not any contention here that every dollar which was used to perpetrate the act which has been denounced by the majority as well as by the minority of this committee was a portion of the fund which was furnished by the Senator from Wisconsin, his money—paid by him.

Mr. HEYBURN. Mr. President, I rise to a question of order.

The VICE PRESIDENT. The Senator from Idaho will state it.

Mr. HEYBURN. The Senator is violating the second section of Rule XIX of this body, which provides that—

No Senator in debate shall, directly or indirectly, by any form of words impute to another Senator or to other Senators any conduct or motive unworthy or unbecoming a Senator.

The Senator from Illinois [Mr. LORIMER] is not under investigation and stands in the same light as any other Member of this body. An offensive reference to him is a violation of the rule.

The VICE PRESIDENT. The Chair did not hear the language the Senator from Washington used, but the Chair is sure the Senator will not violate any of the rules of the body.

Mr. POINDEXTER. It is not my intention to violate any rule.

Mr. HEYBURN. He was in the midst of it and had just uttered the words when I rose and addressed the Chair. It rests with the Chair.

The VICE PRESIDENT. The Chair did not hear them, and the Chair trusts there will be no necessity for raising such a question.

Mr. POINDEXTER. I will endeavor to comply with the rules. Only in passing, however, I will say that I apprehend it is legitimate in the discussion of an election case to refer to the journals and records of this body in other election cases. That is what I did.

It is contended in this case by those who are defending the Senator from Wisconsin on the claim that his election was a

valid election—some of them, at least—that all of the evidence relating to the primary is immaterial. They refuse to consider that. I understand that is the position of the Senator from Idaho. That was practically the sole basis upon which the counsel for the Senator from Wisconsin based his case in the proceedings before the committee—a most elaborate, I think, and artificial and sophistical argument, on the proposition that no attention could be paid to proceedings in a primary election, even though the evidence should show it was corrupt. The Senator from Idaho bases his contention upon the proposition that it had no legal effect upon the legislature, that it was not binding upon the legislature, and consequently had no appreciable or legal effect upon the election of the Senator from Wisconsin.

The same thing may be said, the same argument may be made, against any form of corruption. If the members of the Legislature of Wisconsin had been directly bribed it could be argued that we should pay no attention to evidence of that bribery, because it had no legal effect upon the members of the legislature. We could argue in that case, just as the Senator from Idaho argues in the case of the primary, that we should not pay any attention to the proof of bribery of the members of the legislature, because they were not bound by that bribery.

The importance of the primary election is not in its legal binding effect upon the action of the legislature, but in its persuasive force. In the same way, if money had been used directly with members of the legislature and not legally binding upon them to vote for the man who gave it to them, it would be a persuasive and a corrupting force. So with the primary election. The result was the Senator from Wisconsin became the nominee of his party and was entitled by the party rule, entitled by the statutes of the State, in the regular proceedings to have the votes of the members of his party in the legislature, and it had a persuasive and powerful influence upon the members of the legislature. Can it be logically said that an influence of that kind, an influence which was controlling, although not legally binding, brought about by fraud, brought about by corruption, would not vitiate the election?

I want to call attention very briefly to the kind of argument that is relied upon to relieve the Senator from Wisconsin of the effects of corruption in the primary election. This is reported by the committee as a part of the proceedings before the committee. It seems to be an argument that was made by the counsel for the Senator from Wisconsin. I read from page 21:

So I submit that, in order to get an equation upon which the Senate must finally pass, you must have the existence of those two factors. The primary is simply advisory and persuasive. If it be true that it is corrupt in its character, and so corrupt as to impregnate the vote cast thereby, then the man who cast the vote is also corrupt when he casts it; and the absurdity of that conclusion simply demonstrates that there is no foundation for the proposition. If advisory and persuasive, you do not get the legal connection that ultimately results in corruption, in casting the vote. I submit it is fundamental that there can not be a corrupt vote honestly and sincerely cast. In order to be corrupt in its result and in its effect upon the result, the man who casts it must participate in the corrupt purpose; otherwise, there is an entire absence of legal connection.

That argument sounds a good deal like some of the scholastic arguments as to how many angels could stand on a needle point; but, as near as I can understand it, the proposition is that although the primary election was absolutely corrupt, and although the legislature should follow its result and vote for the nominee in the primary, yet it would not vitiate the election if members of the legislature did not participate in the corruption. I submit it is unworthy of the Senate to undertake to decide a case of this moment upon any such artificial reasoning.

Another contention, which is repeated over and over again in the debate upon this question, is that the acts of corruption, whatever they were, were perpetrated without his personal knowledge by men who had no authority from the Senator from Wisconsin to do the particular acts they did.

Mr. President, in the first place I do not admit at all that this corruption was without his personal knowledge. One hundred and seven thousand dollars was spent, as I have already said, by his agents. Suppose it was spent with his personal knowledge by men whom he had directed, in many instances, how to spend it; but suppose it was not so spent, and that he had no personal knowledge of the particulars of these expenditures, and that the men to whom he had given large sums of money and had them go out and secure his nomination in the primary had proceeded to bribe the electorate of the State of Wisconsin with the money which he had given them, and the only defense was that he was not present, that he had gone off on a fishing excursion.

I believe that is what he says he did, at least, during a large part of this campaign. Suppose he paid no attention to it himself. Shall the Senate listen to a defense of an election that

was brought about by bribery in that way as a valid one, perpetrated by the men he had employed to conduct his campaign, simply because he had no personal knowledge of the particulars in which they had corrupted the electorate? Such a proposition is contrary to common sense; it is contrary to reason; it is contrary to the law; it is contrary to the authorities and the precedents in election cases. On any such reasoning as that, if a man wanted to secure a piece of property and employed an agent to secure it for him, gave him a large amount of money and told him to go and get, we will say, a diamond that he wanted, and the man would go and steal the diamond and put the money in his pocket and bring the diamond back to his employer; if it was sought to recover it his answer would be, "You can not get it back; I did not personally know that it was stolen; it was stolen by my agent; I have it; but you can not recover it, because I did not have personal knowledge of the theft."

I want to call attention very briefly to some authorities upon that proposition, especially with relation to elections, in the work on "The Corrupt and Illegal Practices Prevention Acts," by Ernest A. Jelf. On page 69 there are some illustrations used as to the responsibility of the candidate for acts done by his agents without his knowledge or his specific consent. The author says:

The position of a candidate at an election is like that of a yacht owner in a race. When the owner goes aboard and finds captain and crew there, the very fact that he consents to sail with them makes them perforce his agents for the purpose of sailing the race in accordance with the laws of the course. And so, where the steersman aboard one yacht swears his opponent by declining to give way to the vessel that had a right to keep her wind, or where one of the crew hoists a sail not allowed by the rules of the race, the owner of that yacht is disallowed the prize. This illustration has been frequently approved.

He then cites a number of cases, and proceeds as follows:

Lord Barcoble, in the Greenock case (1 O'M. & H., 251), distinguished three classes of cases—(1) criminal cases, in which the prisoner must be proved personally guilty; (2) civil cases, in which it is enough if the offense is caused by the person employed by the defendant doing the thing he is employed to do; (3) election petitions, where, it being proved that a candidate is having his election carried on by a committee or certain canvassers, those canvassers do something which, if the candidate is responsible for it, will invalidate the election; and it is held that he is responsible for it in the sense of making the election depend upon it. This statement of the law was approved by Blackburn, J., in the North Norfolk case (1 O'M. & H., 241).

What has to be proved to constitute agency for this purpose is that the person in question has been intrusted in some way or other by the candidate with some material part of the business of the election, which is performed, or which is supposed to be performed, by the candidate himself.

So, where the respondent intended generally a distribution of coals to the poor as a charitable gift and with a view of making himself popular, but in the hands of those who acted for him it was made the agency of getting votes for him, this was held to be a corrupt act, for which the respondent was responsible, and he was unseated.

Mr. President, in this case there seems to have been no demand, so far as can be judged from the testimony taken by this committee, that the Senator who is involved here should be a candidate in Wisconsin for the United States Senate. So, as he has testified, as shown by the record, he was put to great expense and a great deal of difficulty in securing a sufficient number of names to the petition to nominate him as a candidate in the primary election. In order to do that he hired a large number of men, and paid them at the rate of 5 cents a name for each name they would secure upon his nominating petition. That was the beginning of his campaign some time in July. In the short space of less than two months this entire amount of \$107,000—and more than \$107,000; more than \$108,000—was expended in the election. He personally gave \$5,000 to Edmonds. He told Edmonds to take charge of his campaign, and gave him no instructions as to how the money was to be used. The Senator from Wisconsin personally gave \$5,000 to Rodney Sackett, and likewise gave him no authority as to how the money should be used. The Senator from Utah [Mr. SUTHERLAND] says that these are not the men to whom he was referring when he said that, in his opinion, they kept a large part of the money which they received. I do not know upon what basis the Senator from Utah arrives at the conclusion that they did not keep a part of this money. They devoted their time and energy and talents to the campaign; they had complete control of this money; and they never made any accounting for the money, except for a portion of it.

As to the manner in which they expended that part which they did expend, and passing by the proposition that they were bribed, and I shall point out very briefly in a moment that the act of the Senator from Wisconsin in paying this money to these men to procure his election for the United States Senate constituted under the law of Wisconsin an act of bribery, what did they do with the vast sums of money, other than the \$5,000 which he paid, which they received from his bankers? One thing that they did with it was to employ a large number of

men to go out over the State, and, as the Senator himself says and as the witness Edmonds says, to stir up sentiment for the candidacy of Mr. STEPHENSON, to say pleasant things about him, and to tell people that he was a good fellow.

One man who was employed was a railroad man, who was to work especially among railroad employees. Mr. Edmonds, the man who was given such a fine character in the eulogy of the Senator from Utah, was asked what instructions he gave to this railroad man in spending money among his fellows. He said he gave him no instructions; that he was to use his own judgment. The question was asked him if it was necessary to pay these railroad men money for their support, was he authorized to do that, and the answer was that he was to use his own judgment as to whether it was necessary or not. That is characteristic of the way in which this campaign was conducted.

I want to briefly call attention to and put into the RECORD the statement on page 30 of the Senator from Wisconsin himself as to his intentions as to how this money should be expended. The chairman of the committee put this question:

Now, you say you do not know what disposition was made of the larger items paid to Van Cleave and Sackett. There is on August 20 an item of \$15,000; on August 20 an item of \$10,000; on August 31, \$2,000; and on September 3, \$13,500, paid to Van Cleave. You do not know what he did with that money?

Senator STEPHENSON. All of that money that was given to Mr. Puelicher and Mr. Van Cleave was to be given to Mr. Edmonds, my manager, as he might need it. That is all they had to do with it.

The CHAIRMAN. What were they to do with this money?

Senator STEPHENSON. They were to give it to Mr. Edmonds as he needed it in the canvass.

The CHAIRMAN. What was Edmonds to do with it?

Senator STEPHENSON. He was to carry on the campaign.

The CHAIRMAN. What do you mean by carrying on the campaign?

Senator STEPHENSON. I might say that you know. You have got to advertise. You have got to get men to work.

The CHAIRMAN. What do you mean by "work," when you say you have to get men to work?

Senator STEPHENSON. To get up sentiment and influence people, if you please, to vote for you.

The CHAIRMAN. How did they influence people to vote for you?

Senator STEPHENSON. To tell them that you are a good fellow, and so forth, and then to get them out. At the time of our primaries here on the first Tuesday of September the people are very busy. The farmers are very busy, and you have got to induce them to get out. Maybe you have to hire a team or something; I do not know what.

I want to read very briefly from page 65 of the record of the testimony of E. A. Edmonds, the principal manager of Senator STEPHENSON:

The CHAIRMAN. Now we come to July 20. On July 20, the day after you received the check for \$5,000, I find an item, "T. J. Sexton, organizing, C. D. No. 93677, \$50." Do you know Sexton?

Mr. EDMONDS. Yes, sir.

The CHAIRMAN. What did he do?

Mr. EDMONDS. He was helping organize in Dane County.

The CHAIRMAN. That is an item that was paid out under your administration, is it, after you had received the \$5,000 and had full control and management of the campaign?

Mr. EDMONDS. But not necessarily from that \$5,000.

The CHAIRMAN. I am not inquiring as to the fund from which it was paid. I am inquiring as to the purpose for which it was paid.

Mr. EDMONDS. Yes, sir.

The CHAIRMAN. What do you mean by "organizing," as it is used in this statement?

Mr. EDMONDS. My recollection is that he was a railroad man, though I am not certain, and that he was sent out and given \$50 to see if he could not line up the railroad men for Senator STEPHENSON.

The CHAIRMAN. What do you mean by lining them up for Senator STEPHENSON?

Mr. EDMONDS. Getting them interested in his election.

The CHAIRMAN. Discussing his election with them?

Mr. EDMONDS. Yes, sir.

The CHAIRMAN. Paying any money to them for any purpose?

Mr. EDMONDS. That was up to the man's judgment as to whether that was necessary or advisable in the conduct of the campaign for Senator STEPHENSON's election.

An army of men were employed and paid money for their services in stirring up sentiment, as it was called, for the Senator from Wisconsin. Among them was a game warden, who was paid, not \$2,500, but \$2,850, not simply to be expended by him for expenses, but, according to his own testimony, he retained a large portion of that \$2,850 for his services in the campaign.

Mr. Edmonds gives a list of the names of some of the men to whom he paid various sums of money, not for expenses, not to be paid out by them, but to be received and kept by them for their support of Senator STEPHENSON, for working for him, for stirring up sentiment for him. This list appears on page 323 of the record, in a paper furnished by Mr. E. A. Edmonds, containing the names of a number of men to whom the amounts stated opposite their names were paid for their services in the campaign, not for expenses, as I have said, but for their employment to aid in procuring the election of Senator STEPHENSON. I desire, without reading it, to have the list printed as a part of my remarks.

The VICE PRESIDENT. Without objection, permission to do so is granted.

The list referred to is as follows:

Exhibit Edmonds B.

Names.	Page.	Recollection as to recompense.
E. H. McMahon.....	588	\$100
J. C. Miller.....	588	100
C. M. Hambricht.....	588	100
J. R. Keyes.....	588	150
T. J. Sexton.....	588	100
A. R. Ames.....	589	200
J. W. Wypszinski.....	589	50
Dr. Frank.....	589	200
C. O. Larson.....	589	50
J. T. Kelley.....	590	500
Wm. Haslem.....	590	100
R. H. Morse.....	590	100
U. C. Kellar.....	591	100
W. Pflughoeft.....	594	50

¹ Per month.

² Speeches.

Others may have asked for and received compensation, but these are all I have any recollection of.

E. A. EDMONDS.

Mr. POINDEXTER. The election obtained by these means was investigated by a joint committee of the Wisconsin Legislature. A report was made by the senate members of that committee, and thereupon the following joint resolution was adopted by the legislature (record, pp. 2-3):

Whereas the senate committee members of the joint senatorial primary investigation committee and the senate investigation committee have in said report found that ISAAC STEPHENSON did commit acts of bribery and attempted bribery and did commit other acts in violation of the corrupt-practices laws of Wisconsin relating to said matters; and, further, that the managers and agents of ISAAC STEPHENSON in said primary campaign and election and general election and senatorial election did, by acts of bribery and attempted bribery and other acts in violation of the corrupt-practices laws and penal statutes of Wisconsin relating to said matters, obtain for the said ISAAC STEPHENSON votes without which he would not have been elected, and that for such reason the election of said ISAAC STEPHENSON to the United States Senate was null and void, and such election of the said ISAAC STEPHENSON to the United States Senate should be annulled by the United States Senate.

SECTION 1. *Therefore be it resolved by the senate (the assembly concurring).* That the senate and assembly concur in the findings and recommendations of said senate committee members of the joint senatorial primary investigation committee and the senatorial primary investigation committee as by them found and recommended and as above recited.

Mr. President, the principal contention made in this case by the able lawyers who have discussed it is that no law of Wisconsin or of the United States was violated in this campaign. The Constitution of the United States provides:

Each House—

Of Congress—

shall be the judge of the elections, returns, and qualifications of its own Members.

The result of the contention that it is necessary that some law of Wisconsin or some law of Congress be violated before the Senate can, or at least before it ought to, hold invalid the election of one of its Members would be to destroy the effect of that clause of the Constitution. If an election is not to be held invalid; if no Member of this body is to be questioned as to his right to his seat unless he has violated a rule laid down by the Legislature of Wisconsin or some rule laid down by Congress, in which the other House has necessarily to concur, then this body is absolutely deprived of its right to judge of the invalidity or validity of the election of one of its Members. That is the contention which is made by the Senator from Utah and the Senator from Ohio and I think by the Senator from Idaho. The effect of it would be—

Mr. HEYBURN. No; Mr. President, I protest—

Mr. POINDEXTER. Just a moment.

Mr. HEYBURN. I am not to be charged with any such ridiculous fallacy as that, and remain silent. I made no such contention, and I never heard it made by anybody else.

Mr. POINDEXTER. Did the Senator not hear the argument repeated and reiterated that the Senate ought not to hold invalid this election because no law of Wisconsin had been violated and because no law of Congress had been violated?

Mr. HEYBURN. That is not what the Senator said.

Mr. POINDEXTER. I beg the Senator's pardon, that is exactly what I said; and I repeat that the effect of that contention would be to deprive the Senate of the right to pass upon the election of its Members.

Mr. SUTHERLAND. Mr. President—

The VICE PRESIDENT. Does the Senator from Washington yield to the Senator from Utah?

Mr. POINDEXTER. I yield to the Senator from Utah.

Mr. SUTHERLAND. Does the Senator from Washington say that I have taken the position that this seat could not be vacated unless some law of Wisconsin or some statute law of the United States had been violated?

Mr. POINDEXTER. I did not say that. I said this: That the Senator from Utah took the position that the election either could not or ought not to be held invalid unless some law of Wisconsin or of Congress had been violated.

Mr. SUTHERLAND. Mr. President—

Mr. POINDEXTER. If the Senator will permit me just a moment, I think it was conceded by all Senators that the Senate had the power to exclude a Member notwithstanding no law had been violated; but it was argued and reiterated that it ought not to exercise that power unless a rule had been laid down by the Legislature of Wisconsin or by Congress.

Mr. SUTHERLAND. With all due respect to the Senator from Washington, he is utterly mistaken. I never have made any such contention, and I do not make such a contention now. On the contrary, more than once in the course of this debate I have been compelled to deny exactly what the Senator from Washington is saying I have said. I emphatically stated, in reply to the Senator from Iowa more than three weeks ago—and I read the statement to the Senator from Missouri [Mr. REED] the other day—that if the Senator from Wisconsin had been guilty of bribery or corruption, he ought to lose his seat if there were no law of Wisconsin on the subject at all. There is not any doubt about that, and the statement of the Senator from Washington regarding my position is wholly unwarranted.

Mr. POINDEXTER. I beg the Senator's pardon if I have misunderstood him. I should like, however, in that connection, to read some portions of the findings and report of the Senator from Utah as showing the effect which he gives in his discussion to the question of not violating a statute law.

On pages 25 and 29 of the report signed by the Senator from Utah he quotes section 990-28 of the statutes of the State of Wisconsin:

No officer, agent, clerk, or employee under the government of the State shall, directly or indirectly, solicit or receive or be in any manner concerned in soliciting or receiving any assessment, subscription, or contribution, or political service, whether voluntary or involuntary, for any political purpose whatever from any officer, agent, clerk, or employee of the State.

And section 298 of Frear's Election Laws:

Every person who, by bribery or corrupt or unlawful means, prevents or attempts to prevent any voter from attending or voting at any caucus mentioned in this act, or who shall give or offer to give any valuable thing or bribe to any officer, inspector, or delegate whose office is created by this act, or who shall give or offer to give any valuable thing or bribe to any elector as a consideration for some act to be done in relation to such caucus or convention * * * shall be deemed guilty of a misdemeanor, etc.

The Senator from Utah further says, page 27 of his report:

At the time of this primary there was no statute, either State or national, limiting the amount of expenditures. There is no judicial or legislative decision, so far as we are advised, limiting the amount which may be legally expended. Can we, in the face of the fact that the Congress of the United States and the General Assembly of the State of Wisconsin prior to this election failed to limit election expenditures, now arbitrarily determine that because this sum was spent it was illegally and fraudulently expended, and therefore vacate the Senator's seat? Can it be said that the expenditure of such a sum is in contravention of a public policy which must be given the force and effect of a statute? If so, where does public policy draw the line between what shall be a legal and an illegal amount? The situation is unfortunate, but the Congress and the State legislature are to blame for not having limited the expenses by statute. Laws can not be enforced retroactively, and surely this case must be decided in accordance with what the law then was and not in accordance with what the law ought to be.

Then the Senator proceeds to discuss with the most minute particularity whether or not these criminal statutes have been violated.

Mr. SUTHERLAND. Mr. President—

Mr. POINDEXTER. If the Senator will allow me—and then I will yield to him—he says that they, being criminal statutes, ought to be given the strictest construction. Of course he means by that, as I understand, that although this is not a criminal proceeding and this not a criminal court the statute ought to be given the strictest construction, as though it were a criminal proceeding here in the Senate in deciding the validity of this election.

Mr. SUTHERLAND. Mr. President—

The VICE PRESIDENT. Does the Senator yield?

Mr. POINDEXTER. I yield.

Mr. SUTHERLAND. I was undertaking to show, as I have undertaken to show at other times, that not only had the Senator from Wisconsin not violated a rule of the common law, not only had he not corrupted or bribed any voters, which would justify his losing his seat in the Senate independently of the statute, but that, in addition, he had not violated any statute.

That is a very different thing from what the Senator from Washington said. If the Senator will permit me to call his attention to what I said on that precise subject on March 4, 1912, more than three weeks ago, to be found on page 3021 of the RECORD of March 6, 1912, it was this:

Mr. President, I do not contend that it would be necessary to show that the Senator from Wisconsin had violated any statute of the State of Wisconsin. If it were shown that he had by the use of money corrupted voters, bribed voters, I would not care whether there was a statute of the State of Wisconsin against it or not. I should vote in a case of that kind that the Senator forfeited his right to his seat. But my inquiry of the Senator from Iowa was directed to his statement that the Senator from Wisconsin had violated some statute, and I carefully limited my inquiry, when I made it, by excluding from it any evidence tending to show corruption or bribery, and asked him whether or not there was a violation of the statute of Wisconsin in any other respect, because it seems to have been taken for granted that the Senator from Wisconsin had violated some specific statute of Wisconsin in addition to having corrupted and bribed voters.

So that, as it seems to me, if the Senator from Washington had listened to what I had said then, there would have been little excuse for his imputing to me a view of this matter that I never have entertained and never have stated.

Mr. POINDEXTER. I am very sorry indeed if I have misunderstood the Senator's position. It seems perfectly clear, however, that when the Senator from Utah characterizes this election as subversive of the fundamental principles of the Government; says that the expenditure of money was excessive, that it is demoralizing and should be prevented; when he characterizes it as an election where, instead of the electors choosing the candidate, the candidate chooses the electors—which can have no other meaning than that as a result of this primary campaign the Senator from Wisconsin selected the members of the legislature—

Mr. HEYBURN. O Mr. President—

The VICE PRESIDENT. Does the Senator from Washington yield to the Senator from Idaho?

Mr. POINDEXTER. I yield.

Mr. HEYBURN. I am responsible for the language, and I never supposed anybody would put such a construction as that on it. I was expressing in other language the oft-repeated and old-time statement in regard to the man running after the office or the office running after the man. But—well, I will just let the Senator stand responsible for that construction.

Mr. POINDEXTER. That was not what the Senator said. I am perfectly willing to stand responsible for it upon the language which he used and which the Senator from Utah adopted. I am perfectly willing, also, to accept the statement of the Senator from Idaho as to what his meaning was. I am relying simply upon what he said, and he said that the result of it was that the candidate selected the electors.

Mr. HEYBURN. "Electorate" was the word I originally used, and the printer mixed it up and substituted the word "electors" for "electorate." But I did not say "members of the legislature."

Mr. POINDEXTER. The members of the legislature were the electors, however.

Mr. HEYBURN. So are Senators.

Mr. POINDEXTER. When the Senator from Utah so characterizes this election it seems perfectly clear that there is no ground upon which he can hold it valid other than upon the technical argument he has made that the statutes were not violated. Mr. President, the Senator from Utah further says in his report—and it is the record upon which I base my statement of his position—after pointing out that the Senator from Wisconsin had not violated the statutes which he quoted, he proceeded to set out clearly and very specifically that he did violate another statute. I inferred from reading this report, or as I did read it, that if the Senator from Utah should find some statute which the Senator from Wisconsin had violated in his campaign, he would hold the election invalid.

Mr. SUTHERLAND. Mr. President, that would depend upon what statute it was. The statute which the Senator probably has reference to is that which requires the filing of an account.

Mr. POINDEXTER. That is one which I have reference to.

Mr. SUTHERLAND. That statute required the filing of an account after the election had taken place. Of course I assume that the Senator would not contend that the violation of a statute after an election had taken place could in any manner affect the validity of that election. It would make the person who violated it subject to the punishment provided by the statute, but it could not render invalid something which had already taken place and which was valid.

Mr. POINDEXTER. What I was struck by was the form of the argument of the Senator from Utah. With nice discrimination he argued that the bribery statutes were not violated. He then proceeds to find that the Senator from Wisconsin did violate this statute, but then excuses the effect of it upon this

controversy by saying that the statute did not provide for a forfeiture of the office. The language of the Senator is:

The penalty for failing to comply with this statute is a fine only, and it does not provide for the forfeiture of the office.

Mr. SUTHERLAND. That was not all that was said; that is one of the things.

Mr. POINDEXTER. The Senator then said:

If it did, the statute to that extent would be unconstitutional, but Mr. STEPHENSON, because of his failure to file a proper account, has violated the statute and is subject to a fine.

That is the report of the Senator from Utah.

Mr. SUTHERLAND. Even that is not all of it.

Mr. POINDEXTER. I am perfectly willing that the Senator shall insert any other part of it that he wishes.

As to the importance of that statute which the Senator from Utah finds was violated by the Senator from Wisconsin, Mr. President, I want to call attention to the words of C. N. Gregory in an article upon "Political corruption," read before the Wisconsin Academy of Sciences, Arts, and Letters in December, 1894. On pages 284 and 285, referring particularly to Wisconsin—Mr. Gregory being a professor in the State university at the time he published this article—he says:

I do not so much value the penalties denounced in these new laws against bribe givers and bribe takers as I value the sworn reports of receipts and expenditures with vouchers, which are wrung from candidates and committees alike after every election. I trust much to these powerful searchlights. I believe, in fact, that the prevalence of truth and justice in the world was assured when on that first day of recorded time God said "Let there be light," and there was light. I remember that the streets of our cities are perhaps quite as much redeemed from lawlessness by the lamp-posts as by the church spires. In politics, where men rise by the formal approval of their fellows, I do not believe that public and confessed corruption can have any continuing hold or advancement.

There was in effect in Wisconsin at the time this primary election took place the following statute:

The following persons shall be deemed guilty of bribery at elections:

Every person who shall, directly or indirectly, by himself or by any other person on his behalf, make any such gift, loan, offer, promise, procurement, or agreement as aforesaid to or for any person in order to induce such person to procure or endeavor to procure the election of any person to a public office, or the vote of any voter at any election, etc.

The Senator from Ohio [Mr. POMERENE] has attempted to qualify the meaning of that statute by inserting in it the word "corruptly" as being implied by the word "such"; but by reading the statute—I will not take time now to read the preceding sections—it will be found that the statute is not qualified by any such additional language. It is simply a plain provision that any gift of money or valuable thing to any person in consideration of that person's procuring or endeavoring to procure the election to an office constitutes bribery. This entire \$107,000 was paid for that purpose, Mr. President, to Edmonds, to Sacket, and to Perrin, and through them, in turn, to all of the subordinate employees who went out through the 71 counties of the State. They were hired men for the purpose of creating sentiment, for the purpose of procuring or endeavoring to procure the election of the Senator from Wisconsin. It is a violation, as plain as in any case I have ever seen, of the statute which I have just read, the penalty for which is imprisonment in the State prison for from six months to two years.

That statute has been construed time and time again. It is simply a copy of the English corrupt-practices act of 1854, which has been perpetuated as a part of the corrupt-practices act of 1883. Very briefly I want to call attention to some of the interpretations that have been put upon this bribery statute, intended—and I think effectively framed—to prevent the carrying of an election by hiring men in large numbers to go out and make the campaign and bring back the nomination or the election by stirring up public sentiment as a consideration for the price they have received.

In Rogers on Elections, on page 281, third volume, he says:

The above proviso applies only to the first five subsections, i. e., to the whole of the second section.

The proviso that the author is referring to is the proviso which was contained in the statutes of Wisconsin, that—

The aforesaid enactment shall not extend or be construed to extend to any money paid or agreed to be paid for or on account of any legal expenses bona fide incurred at or concerning any election.

This section is open to criticism, because it prohibits and so makes certain acts illegal, and then excepts legal expenses, although, necessarily, everything legal is excepted from or not within what is illegal. The section must be read thus: "Every person who shall, etc., shall be guilty of bribery, provided that this enactment shall not extend to any money paid, or agreed to be paid, for or on account of any expenses bona fide incurred at or concerning any election, and provided such expenses are not illegal on some other ground than this prohibition."

The committee reported that a voter was bribed, by the offer of 2 guineas for cart hire, by an agent of the sitting member, and avoided the election.

Citing cases:

A present, office, etc., given, offered, or promised before an election to a voter, or to anyone on his behalf, or to any other person supposed to have influence over him, without any stipulation as to his vote, or even the endeavor or promise to endeavor to procure any such, will be taken prima facie to be bribery.

The gist of the offense before voting is the inducement to a voter to vote or refrain from voting. If this exists, the ignorance or honesty of the man who offers, or of him who takes, is immaterial.

The following is applicable to a primary election:

But where they are part of one political contest, and the corruption at the municipal election is either intended to operate upon the parliamentary one, or that is the necessary result of what was done at the municipal election, the parliamentary election will be avoided for the corruption at the municipal election.

That is on page 284.

Loans of money to a voter, or a person likely to influence him, are placed on the same footing, as regards the lender, as absolute gifts.

The question as to whether employment amounts to bribery is one of fact. In deciding such question regard must be had to the nature of the employment, the number of persons employed, whether they are voters or not, and the amount of the payments.

Office or employment, whether temporary or permanent, if not given bona fide, is bribery, and whether it be given to a voter or a third person will be immaterial, if it can be proved that the receiver influenced the voter and that the giver meant him to do so.

There are a number of cases dealing with the giving of refreshments, which are particularly applicable to this election, where one witness testified that he spent over \$150 in one day in saloons, another witness testified that he received \$305 and spent it in saloons, and another witness testified that they bought kegs of beer and distributed them through the country, to be given to the voters, and that that was generally done in the State of Wisconsin.

Some contention, I understand, has been made by one Senator that, even though there were bribery at this primary election, it would not vitiate the election unless the entire 9,084 voters had been bribed. That is entirely contrary to every assumption, I think, that this body has proceeded upon in election cases, and contrary to the decisions of the courts. Under the English corrupt-practices act Parliament is not the judge of the violation of that act; and the election cases are not tried in Parliament, but are tried in the courts. Consequently there are a large number of decisions which explain and interpret this statute, which is a part of the laws of Wisconsin. Among others is this decision:

A single act of bribery, however trifling the amount, may avoid an election.

That is on page 293 of the work from which I have just quoted.

Very briefly, Mr. President, I want to read, upon the general principles involved, just one paragraph from the case of *Seofield v. The Milwaukee Free Press Co.*, One hundred and twenty-sixth Wisconsin, on page 85, simply as indicating a judicial view of the magnitude of the interests involved in this proceeding.

Sweeping aside all of the technical refinements urged by appellants, such as the absence of any express understanding with legislative candidates that they would favor the contributor, or of any showing—

That is particularly pertinent in view of the testimony which shows that the Senator from Wisconsin personally paid sums of money to three men who were candidates for the legislature.

I have not taken time to review the authorities, but I will simply state that when these cases are brought into court the courts will not accept any such defense, but hold that the payment of the money and its acceptance by a candidate will be held to be done for the purpose of influencing the election, although he may come in and say it was not for that purpose. So this court says:

Sweeping aside all of the technical refinements urged by appellants, such as the absence of any express understanding with legislative candidates that they would favor the contributor, or of any showing whether he expected they would use his contribution for legitimate campaign expenses or otherwise, we can not doubt that the charge of using money in large quantities in the hope and expectation of thereby promoting his own candidacy for the United States Senate is a most degrading one to make against any public man. Such an act is an assault upon a most essential principle of popular government, which, if to be successful, must assume the free selection of officials on grounds of fitness. It pretends a superiority before the law of the corrupt man of wealth over the man of ability and integrity who, either from poverty or principle, is debarred from similar means of securing support. It evinces a willingness to corrupt the legislature and dangerous looseness of morals.

The testimony in this case shows that one Perrin, an attorney at law, received \$5,000, and that out of that he retained at least \$500 for his own services.

W. S. Stone received \$2,849.50. According to his testimony, he retained \$600 of it for his own services.

So it was with numbers of other men to whom this money was given. They did not expend it; they kept it for their own

services, and by its means their support and their activity in this election were bought.

In conclusion, Mr. President, I want to say that the foundations of the Government depend upon the purity of elections. Of course, I realize the difference of opinion as to how extensive the rights of the people to vote in the election of their officers should be, but with all these, whether those who believe in a strictly representative government by simply a few of the people or those who believe in a liberal exercise of the powers of government by the people themselves, under any form, whether in a democracy or in a republic, the perpetuity of its institutions depends upon the freedom and the purity of elections.

An undoubted fact in this case is that at the primary election in Wisconsin the nomination of the Senator who now sits from that State was brought about by the use of money. The only parallel that could be exercised would be the use of force, and I submit, Mr. President, that the case under consideration is just as dangerous to our institutions, just as injurious to the respect which it is necessary to preserve among the people for the laws which are made in these bodies by the men who are chosen. These men who vote, and cast frequently the determining vote, making laws affecting the property, the well-being of the entire Nation, menace our institutions just as much from the use of money in polluting and corrupting the ballot box as though a military force should stand at the polls herding the voters and directing them for whom to cast their votes.

A brief sentence from Mr. Justice Miller, when he was upon the Supreme Court, is as follows:

The two great natural and historical enemies of all republics are open violence and insidious corruption.

And the writer of this pamphlet, entitled "Political Corruption and English and American Laws for its Prevention," adds:

And in the order in which the judge names them they menace the freedom and purity of the ballot, the chief support of republics.

Mr. HEYBURN. Mr. President, I ask for the yeas and nays on the pending motion.

The yeas and nays were ordered.

Mr. NEWLANDS. Mr. President, I wish to state briefly my position regarding this vote.

I shall vote to sustain the report of the committee. I have for many years stood for all the various measures of reform that relate to elections, legislation, and administration. I have stood for the initiative, the referendum, and the recall, except so far as it relates to judicial officers. I have stood for the direct primary. I have stood for laws correcting the evil practices regarding elections.

The act complained of here were committed four years ago. Since that time public sentiment has crystallized regarding practices which were not condemned by the common law, and which were not condemned by the statutes of many of our States, and which were not condemned by any act of Congress. Since that time we have put upon the statute book laws, both State and National, which do condemn the practices that were not in violation of law four years ago.

So far as I am concerned, whilst I condemn these practices and think they should be corrected by law, and have stood for the laws, National and State, which have corrected them, and am willing to support laws which will further correct them, I am unwilling to judge the acts of four years ago either by the political or the moral standards of to-day or to condemn them by the laws of to-day. To do that would be to make the laws, both National and State, which have since been enacted, retroactive in their operation.

I shall therefore vote with the committee in its report regarding the seat of Mr. STEPHENSON.

Mr. KERN. Mr. President, I shall trespass on the time of the Senate but a moment. I had intended to speak at some length upon the question before the Senate, but on account of the lateness of the hour I shall not do so.

I only want to say that I, too, with the Senator from Nevada [Mr. NEWLANDS], in the years of the past have stood for primary elections. I have stood for the purity of the ballot. I have stood for popular government. I propose, when I cast my vote on this question, to vote in accordance with the things that I have advocated on the stump and in the campaigns of the past.

THE VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Idaho [Mr. HEYBURN], on which the yeas and nays have been ordered.

Mr. JONES. Mr. President, I do not know whether it is in order to offer the amendment, but if it is in order I desire to move an amendment by inserting, after the word "declared," the word "not."

Mr. HEYBURN. That has been voted on.

The VICE PRESIDENT. The Chair thinks that is the question voted on yesterday and that such an amendment would be simply voting again on the precise question voted on yesterday. Therefore the Chair thinks the amendment would not be in order.

The question is on agreeing to the motion of the Senator from Idaho [Mr. HEYBURN] that the report of the committee be adopted, and that ISAAC STEPHENSON be declared entitled to a seat as Senator from the State of Wisconsin in the United States Senate. The Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. BACON (when his name was called). I have a pair with the Senator from Minnesota [Mr. NELSON]. He is absent, and I withhold my vote.

Mr. CHILTON (when his name was called). Upon this question I am paired with the junior Senator from Oklahoma [Mr. GORE]. I transfer that pair, with his consent, to the Senator from Kentucky [Mr. PAYNTER], and vote. I vote "yea."

Mr. DILLINGHAM (when his name was called). I have a general pair with the senior Senator from South Carolina [Mr. TILLMAN], from which, upon this vote, I have been released. I therefore vote "yea."

Mr. DIXON (when his name was called). I am paired with the junior Senator from Texas [Mr. BAILEY]. I understand if he were present, he would vote "yea." I transfer that pair to the junior Senator from Missouri [Mr. REED], and I vote "nay."

Mr. STONE. I think it due to state, in this connection, that my colleague [Mr. REED] if present would vote "nay."

Mr. DIXON. I did not understand the statement of the Senator from Missouri.

Mr. WARREN. He stated that his colleague if present would vote "nay."

Mr. DIXON. I understood that if the Senator from Missouri [Mr. REED] were present, he would vote "nay," and that the Senator from Texas [Mr. BAILEY], with whom I am paired, if present, would vote "yea." I therefore transfer my pair with the junior Senator from Texas to the junior Senator from Missouri, and vote "nay." I ask the senior Senator from Missouri if that is his understanding as to how his colleague would vote if present.

Mr. STONE. That is correct.

Mr. BURNHAM (when Mr. GALLINGER's name was called). The senior Senator from New Hampshire [Mr. GALLINGER] is necessarily absent. He is paired with the senior Senator from Arkansas [Mr. CLARKE]. If the senior Senator from New Hampshire were present and permitted to vote, he would vote "yea."

Mr. GAMBLE (when his name was called). I have a general pair with the junior Senator from Arkansas [Mr. DAVIS]. I transfer that pair to the Senator from Colorado [Mr. GUGGENHEIM] and vote "yea."

Mr. SIMMONS (when his name was called). I am paired for this vote with the senior Senator from Illinois [Mr. CULLOM]. If he were present he would vote "yea," and if I were at liberty to vote I would vote "nay."

The roll call was concluded.

Mr. LEA. The senior Senator from Tennessee [Mr. TAYLOR] is seriously ill. I do not know how he would vote. He is so ill that I have been unable to communicate with him.

Mr. BRADLEY. I have a general pair with the senior Senator from Tennessee [Mr. TAYLOR], from which I have been released. I vote "yea."

Mr. MYERS. Some one announced a transfer to the Senator from Kentucky without mentioning the name. I should like to ask what Senator from Kentucky it is?

Mr. CHILTON. The senior Senator from Kentucky [Mr. PAYNTER].

Mr. MYERS. Thank you.

The result was announced—yeas 40, nays 34, as follows:

YEAS—40.

Bankhead	Dillingham	McCumber	Rayner
Bradley	du Pont	McLean	Richardson
Brandegee	Fletcher	Newlands	Root
Briggs	Foster	Nixon	Smith, Md.
Burnham	Gamble	Oliver	Smoot
Burton	Heyburn	Overman	Sutherland
Chilton	Johnston, Ala.	Page	Thornton
Clark, Wyo.	Lippitt	Penrose	Warren
Crane	Lodge	Perkins	Watson
Curtis	Lorimer	Pomerene	Wetmore

NAYS—34.

Borah	Cummins	La Follette	Smith, Ga.
Bourne	Dixon	Lea	Smith, Mich.
Bristow	Gardner	Martine, N. J.	Smith, S. C.
Brown	Gronna	Myers	Stone
Bryan	Hitchcock	O'Gorman	Townsend
Chamberlain	Johnson, Me.	Owen	Williams
Clapp	Jones	Percy	Works
Crawford	Kenyon	Poindexter	
Culbertson	Kern	Shively	

NOT VOTING—17.

Bacon	Gallinger	Paynter	Taylor
Bailey	Gore	Reed	Tillman
Clarke, Ark.	Guggenheim	Simmons	
Cullom	Martin, Va.	Stephenson	
Davis	Nelson	Swanson	

So Mr. HEYBURN's motion "that the report of the committee be adopted and that ISAAC STEPHENSON be declared entitled to a seat as Senator from the State of Wisconsin in the United States Senate" was agreed to.

Upon the announcement of the result, there was applause in the galleries.

The VICE PRESIDENT. Applause in the galleries is not permitted. The Chair trusts that visitors in the galleries will eventually understand that they are there as guests of the Senate and subject to the rules of the Senate, and that the rules of the Senate prohibit visitors in the galleries from expressing their approval or disapproval of what takes place upon the floor of the Senate.

Mr. HEYBURN. I move that the Senate adjourn.

The motion was agreed to; and (at 6 o'clock and 22 minutes p. m., Wednesday, March 27, 1912) the Senate adjourned until to-morrow, Thursday, March 28, 1912, at 2 o'clock p. m.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, March 27, 1912.

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

O Thou, who art supremely great and good, our God and our Father, source of all our longings, hopes, and aspirations, kindle within our hearts a sacred flame which shall burn brighter and brighter as the years come and go until we shall have reached the light of the perfect day in Christ Jesus our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

THE WOOL SCHEDULE.

Mr. UNDERWOOD. Mr. Speaker, I desire to make a privileged report (No. 455) from the Committee on Ways and Means, reporting back the bill H. R. 22195, a bill to revise the wool schedule.

Mr. MANN. Mr. Speaker, at this time it would be subject to a point of order, but I shall not make any point of order against the report under the circumstances.

The SPEAKER. The Chair is glad that the gentleman from Illinois made that remark, because it is the desire and the intention of the Chair to carry out the plan for Calendar Wednesday in perfect good faith.

Mr. UNDERWOOD. I recognize, Mr. Speaker, the fact that a privileged report would be subject to a point of order this morning if anybody desired to make it, but I think to expedite business it is proper to allow privileged reports to be made on Calendar Wednesday, and later on in the session there will be conference reports offered for the purpose of being printed under the rule, and it seems to me that it would be proper to allow them to come in, as long as there is no objection.

Mr. MANN. I think it is perfectly proper that this report should be made now.

The SPEAKER. All of these rules are made, of course, to expedite business.

Mr. PAYNE. Mr. Speaker, I present the minority views upon the bill revising the wool schedule, and ask that they be printed along with the majority report (H. Rept. 455, pt. 2).

The SPEAKER. The Clerk will read the title to the bill.

The Clerk read as follows:

A bill (H. R. 22195) to revise the duties on wool and manufactures of wool.

The SPEAKER. Is there objection to the request of the gentleman from New York? [After a pause.] The Chair hears none. The bill, together with the report and minority views, will be referred to the Committee of the Whole House on the state of the Union and printed.

Mr. UNDERWOOD. Mr. Speaker, I understand that copies of the bill H. R. 22195, just reported, are exhausted in the document room, and that there are no copies for Members. I desire to ask unanimous consent that there may be a reprint.

Mr. MANN. That is not necessary. The document room has authority to order any number of copies that it wants, 1,000 at a time.

Mr. UNDERWOOD. I wanted to be sure that there would be enough copies for Members.

Mr. MANN. They will print them without an order of the House.

Mr. UNDERWOOD. Mr. Speaker, I withdraw the request.

Mr. FINLEY. Mr. Speaker, I did not quite catch the statement of the gentleman from Illinois.

Mr. MANN. I said that the document room had authority to order a reprint of a bill, 1,000 at a time.

Mr. PAYNE. I would like to ask the gentleman from Alabama if he desires to make any suggestion as to the time when he will call up this bill?

Mr. UNDERWOOD. I propose to take it up as soon as the public business of the House will allow me to do so. There is a bill pending before the House, the consular and diplomatic appropriation bill, and I do not desire to interfere with that. When that is out of the way I hope to have an opportunity to call up this bill.

The SPEAKER. The gentleman from Alabama withdraws his request for a reprint.

HOMESTEAD ENTRIES.

The SPEAKER. This is Calendar Wednesday, and the unfinished business is the bill S. 3367. The House automatically resolves itself into Committee of the Whole House on the state of the Union.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. FOSTER in the chair.

The CHAIRMAN. The House is now in Committee of the Whole House on the state of the Union, and the unfinished business is the bill which the Clerk will report.

The Clerk read as follows:

S. 3367. An act to amend section 2291 and section 2297 of the Revised Statutes of the United States, relating to homesteads.

The CHAIRMAN. When the committee rose last Wednesday they had under consideration an amendment offered by the gentleman from Wisconsin [Mr. LENROOT], which the Clerk will report.

The Clerk read as follows:

At the end of line 16, on page 3, add the following:

"If any entry is made for land which, though not reserved at the time, is ascertained by the Secretary of the Interior to be chiefly valuable on account of merchantable timber upon it the entry may be canceled within six months of its date."

Mr. FERRIS. Mr. Chairman, the amendment offered by the gentleman from Wisconsin last Wednesday is an amendment relative to the timber lands of the country. I do not think at this time it is necessary, either for myself or any Member of the House, to debate whether or not this amendment is or is not a good amendment. For the last 50 years the homestead laws have been in force. At the time they were made they were made for the humid sections of the United States where we have rainfall enough to make lands valuable. For 50 years they have been culling out the good lands by homestead entries and land grants—the lands that have rainfall enough to raise crops—until the only lands left are in the semiarid or arid parts of the West, where it is difficult to carry on agriculture. They need a change in the land laws, and this bill grants them that relief. For the last 10 years we have increased in population from 75,000,000 to 92,000,000, and still the number of homesteads have decreased in the last year 33½ per cent. It is estimated from figures not well controverted that about 125,000 families went to Canada last year and took up land. It was the judgment of your committee that the law ought to be so modified as to residence and be so modified as to the length of time that they must live on the land from five to three years, so that our people might not leave us, but, on the contrary, would stay with us.

This bill merely eases up on the length of time necessary for residence from five years to three years, and merely makes a few changes in regard to leave of absence. Whether the gentleman's timber amendment be a good or a bad amendment, the gentleman from Illinois and the committee agreed last Wednesday that we would provide for putting every part of this bill into conference by moving to strike out everything after the enacting clause and inserting in lieu thereof the bill as agreed to in this House.

Therefore it would give us an opportunity in the conference for the Secretary to come before us, for the gentleman from Wisconsin [Mr. LENROOT] to come before us, for the gentleman from Illinois [Mr. MANN], and those other gentlemen who are interested in the matter, and we could there work out a comprehensive bill that would be a bill which would really accomplish what the House and the committee sought to do. I again repeat it is not necessary at this time to debate whether this be a good or a bad amendment, because the bill as passed by the Senate, the bill as passed by this committee, as far as we have gone, makes no change in the timber and stone act, makes no change in the mineral laws of this country, but merely relates to the length of time of residence. Therefore I submit to

adopt the amendments that are purely foreign to this particular line of legislation would be unwise at this time, and I hope the committee will vote down this amendment, not as any rebuke to its author or not necessarily as the view of the House that it may or may not be wise, but because of the proposition that this is no time to encumber a remedial piece of legislation, which, I think, this entire House agrees is necessary. We have separate statutes on timber and stone entries; we have rigid mineral laws; we have passed rigid withdrawal bills; the forestry has been extremely active; practically all the timberland has been withdrawn.

In any event, this is no place to legislate on every conceivable subject that can be conjured up.

It is apparent something should be done. This bill ought to pass, and it ought not to be burdened too much with amendments, or foreign amendments, whether they be good or bad amendments.

Mr. NORRIS. Mr. Chairman, I am not especially interested in this particular amendment. The other two amendments offered by the gentleman from Wisconsin [Mr. LENROOT] I believe were good ones. I voted for both of them. I think they ought to have been included in this bill, and I speak here as a friend of this legislation. There is no man here who is more anxious to see this bill enacted into law than I. If we reject all of these amendments—harmless some of the gentlemen proclaim, but, on the other hand, claimed by others to be of great importance—I believe we would jeopardize this legislation. I regret very much that we did not put into this bill the amendment offered by the gentleman from Wisconsin [Mr. LENROOT] regarding the mineral proposition, and if I can get recognition from the Speaker I intend to move to recommit the bill when the proper time comes so as to provide for that amendment. The gentleman from Oklahoma [Mr. FERRIS] says that we are going to send this entire bill into conference. He comes very near saying that all of these amendments are going to be put in in conference. If that be true, why not put them in now? This particular amendment, I think, is of the least importance of any. It may be that the importance of the other two is overestimated, but it certainly will not damage any honest homesteader in any respect if we at least add to this bill the proposition regarding mineral deposits.

Mr. FERRIS. Mr. Chairman, will the gentleman yield?

Mr. NORRIS. Certainly.

Mr. FERRIS. The gentleman, coming from the State he does, I know is familiar with the land laws. I therefore want him to admit, at least, that at the time the homesteader makes final proof he must both himself and by his witnesses declare that there is no mineral on the land. That is a part of his final proof.

Mr. NORRIS. I understand that is true, and I am not, as far as I am concerned, particularly arguing that this amendment is necessary. I would support the bill without it. I do not know that I would urge it particularly, but the gentleman himself practically admits that the amendment will not do any damage, and that eventually it is going to be put in in conference. Why not do it here? It will not hurt the honest homesteader if that provision is put into the bill.

Mr. MILLER. Mr. Chairman, will the gentleman yield?

Mr. NORRIS. Certainly.

Mr. MILLER. Does the gentleman not think if it should be engrafted in this bill as a part of the general homestead law it more properly should be presented as an amendment to other sections of the homestead law?

Mr. NORRIS. That may be true.

Mr. MILLER. And not engrafted onto these two sections?

Mr. NORRIS. It may be that there is some place where it would be more appropriate, but I answer the gentleman from Minnesota and the other gentlemen who are opposing this by repeating their own words, when they tacitly admit that these amendments are going to be considered in conference, and that the Secretary of the Interior is going to be heard, and that we will make a new bill out of it and put them in.

Mr. MILLER. I do not mean to concede that I think this amendment ought to be placed in this bill in conference or in any other place. I do not understand that other gentlemen so agree.

Mr. NORRIS. I understand, however, that this agreement which has been more or less talked about a week ago to-day and to-day practically concedes that.

Mr. FERRIS. Oh, no; no.

Mr. NORRIS. And I understand also that unless some provision of this kind be put into the bill, the Secretary of the Interior, who represents the President in the matter, will be in favor of the President vetoing it, and it may be that the President, following the advice of his Secretary of the Interior,

may veto the bill if these provisions are not put in. As a friend of the bill I do not want to take any chances in nullifying the bill here by having it eventually defeated when we can meet the proposition by putting in an amendment that of itself is good, and that will do nobody any harm.

Mr. FERRIS. Mr. Chairman, I want to suggest to the gentleman, if he is quoting my statement or any statement that I have heard here I think he quotes it too broadly when he says that these amendments have been agreed to or will be agreed to at all.

Mr. NORRIS. I do not say they have been, but I draw my inference from what the gentleman has said, that at the close of this debate he is going to offer the entire bill as an amendment, to strike out all after the enacting clause and insert the bill which this committee will perfect, so that it can go into conference. There can be no other object in doing that than permitting such amendments to come in, and if I knew they would come in and it would be fixed up in conference so that it would meet the approval of the Secretary of the Interior and the President upon these matters I would not have any objection to it.

The CHAIRMAN. The time of the gentleman from Nebraska has expired.

Mr. MADDEN. Mr. Chairman, I have listened very carefully to all the debate which has been had in connection with this bill, and somehow or other I have received the impression that the men who represent the Western States which are to be affected by this bill seem to think that nobody else in the United States has any interest in the public lands of the United States, but that all of the States except the States in which these homesteaders are to be affected should keep quiet and not enter into a discussion of the questions that pertain to the homestead land laws.

I am of the opinion that everybody in the United States has an equal interest in these public lands, and I have long since believed there ought to be something done to protect the minerals and the timber, and the granting of the title deed to a homestead for agricultural purposes ought not to carry with it the ownership of the minerals in the land or the timber on the land. The amendments offered, one of which is now pending, certainly seem to me to be in the interest of the public. It seems to me we ought to enact these amendments into the law. It may be that this is not the proper place to put these amendments; that this is not the proper bill on which to engraft them; but it looks to me as if a bill which is for the purpose of granting titles to those who wish to homestead lands in the United States owned by the Government ought to be a good place to place conditions upon the titles that are to be granted to the people who want the homestead. I see no reason on earth why this House or this committee should not consider every phase of the bill. Why should it be necessary to send it to conference to improve it? Is it the fact that the men who are here do not know as much about how to legislate as those who will be on the conference, or is there something to go into the bill that ought not to be given to the membership of the House until it comes back from the conference? I am opposed to this agreement to enter into a conference on questions that ought to be considered before the body where the bill is pending. I think that if there is any information in connection with this legislation it ought to be given to us. I think you will find men enough here who have brains enough to shape the legislation as it ought to be shaped, and I think that we make a great mistake when we vote down every amendment seeking to conserve the rights of the Government in the public lands. We have already done more of that than we ought to have done. If the Government had an interest in the mineral lands throughout all the States of the Union to-day, we would not have to levy taxes on most of our people to maintain the Government. Now, the land which is left that is owned by the Government ought to be protected by the Government, and such legislation should be enacted as will reserve to the Government for all time to come all the minerals and the timber upon the public lands of the United States, and it should never be granted to any private individual or corporation except upon conditions which will inure to the benefit of coming generations.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. COX of Ohio. Mr. Chairman, in all suggested legislation bearing upon land and homestead laws there are two markedly different opinions—the eastern view, which is very largely shared by the persons who hold to the modern notions of conservation, and the western view, that is shared by those who believe that the Federal land reserves form entirely too large a part of their States. It was perfectly apparent in this House last Wednesday—and, I think, in the body at the other end of the Capitol, when this bill was under discussion—that the whole

country wants the homestead laws liberalized. There seems to be few, if any, dissenting voices in this House on the proposition to change the five-year term to three years. Now, since the Members are in accord upon this basic proposition, I believe—and I speak as a friend of the measure—that it is very inexpedient to confuse the main issue by any disagreement on the matter of utilities outside of agriculture. The desire to liberalize the statute is based upon the idea of getting more people upon the western lands. They go there presumably for the purpose of farming. The people who have been opposed even to liberalizing these laws have been dominated by the fear, more or less widespread, that many of these alleged homesteaders go there for the purpose of mineral exploitation, the exploitation of timberlands, and other things. We all want the three-year law adopted and passed, and I believe that the western Members and the members of this committee, in large part, are making a mistake in opposing these amendments which are now suggested. I think that all utilities except that of agriculture should be held by the Government.

Mr. MANN. Mr. Chairman, under the understanding which was reached on the floor of the House some days ago this bill will probably go to conference on the entire bill. I voted for the amendment offered by the gentleman from Wisconsin. Those amendments were amendments prepared by the Secretary of the Interior, at my request, in reference to this bill. The Secretary of the Interior, reporting upon this bill originally, suggested a number of changes which should be made in the bill or amendments which should be inserted in it. I made a request that the Secretary might send the gentleman from Colorado in charge of this bill a statement of those things which he considered absolutely essential to go into this bill, and the amendments offered by the gentleman from Wisconsin were a portion of those propositions. If this bill goes into conference on the entire bill, I think the understanding is the conferees will meet with or hear from the Secretary of the Interior and the Land Office and endeavor to agree upon a bill which will be satisfactory, both to the House and the Senate and the administration of the land laws. For instance, yesterday the President sent a message to us calling attention to the fact that the entry of potash deposits was subject to private entry and were not excepted, and no provision was made for the withdrawal of lands containing such deposits, as there clearly ought to be. I hope that when this bill comes back from conference it will contain something upon that subject. Gentlemen say that this is not a bill upon which to insert these items, and yet if they ought to be inserted, in the judgment of Congress, in the end, this bill is before us, and we had just as well insert them here as anywhere, as long as they relate to the subject matter of the bill; and the subject matter of the bill covers the entire public domain so far as it is not withdrawn from entry. I think that in inserting those provisions, which I hope and believe will be inserted in conference, so far, at least, as they are considered necessary by the Secretary of the Interior, in whose judgment I have great faith, that they will be put in in such manner as to accomplish the purpose in connection with the other provisions of the bill.

Mr. MILLER. It does not seem to me, Mr. Chairman, that the friends of this measure before us have much of a quarrel with those who are offering amendments and in some way opposing the bill. I do not think there is anybody in the House who will take issue with the gentleman from Illinois [Mr. MADDEN] in what he said respecting the interests of the public at large in the public domain. The people in the States of Illinois, Maine, New York, and Pennsylvania have an interest in the public domain in Minnesota, in Nebraska, in California, or in any other State, of course. It may be, however, that some of us who live in public-domain territory, having had experience on the frontier and having had an opportunity to see the workings of the men who have gone as pioneers and who are doing the pioneer work, may know a little bit more about their needs and about that which will be beneficial to them and to the public domain and to the Nation at large than those equally interested, equally public-spirited, who lack those opportunities of investigation and information.

I take no issue with the gentleman from Illinois [Mr. MANN] in the position he has taken with respect to the amendments that he favors. I do take issue, however, with him in this, that this is no place for their consideration. And why? For a long time we have been believing, and now we are ready to act, I think, on that belief, that the period of residence of a homesteader upon the land should be diminished from five years to three years. We have that definite concrete proposition before us for consideration and action. Let us now consider that, and let us vote upon it. Let us not encumber it with a lot of material that is, perhaps, relevant in a sense, but which, strictly speaking, has no direct bearing upon this question and the one

thing upon which we are agreed. It may be that the Secretary of the Interior, a gentleman for whom we all have great respect, thinks that the general homestead law could be improved by these various amendments which have been mentioned, but he certainly has not said, and he can not say, that they have any particular bearing upon the matter of reducing the period of residence from five to three years. He has not said, and he can not say, that if we lessen the time from five years to three years we shall have done anything to the injury of the public domain without accepting and engrafting thereon these various amendments. Let them come in their own time and occupy the attention of the House fully and completely, and then let them be decided.

I will state, Mr. Chairman, that I am not in a position to have any opinion at this time respecting the amendment now offered, as to whether I should favor it or be against it. Yet I know that in my own State there is probably as much public domain that may be affected by this, having possibilities of pine and minerals, as any other State in the Union. I for one want to see the natural wealth of the Nation conserved, but I do not want to see a homesteader handicapped, see him so hampered by regulations, see him so hampered by restrictions, that when he goes to get for himself a little piece of land on the frontier he is absolutely appalled by the obstacles that confront him, and in the majority of cases withdraws from the contest because he is unequal to it.

Mr. NORRIS rose.

The CHAIRMAN. Does the gentleman from Minnesota yield to the gentleman from Nebraska?

Mr. MILLER. Yes.

Mr. NORRIS. I want to suggest to the gentleman that the pending amendment has nothing to do with minerals.

Mr. MILLER. Very likely. Mr. Chairman, this relates to forests, which are in the same category, so far as my district is concerned. I would like to say one word on the matter of timberland. I ask unanimous consent to proceed for two minutes more.

Mr. NORRIS. The gentleman has some more time. Let him go ahead.

Mr. MILLER. As I understand this amendment, it withdraws or puts a restriction upon the title to the timber upon land. Now, certainly, I think the friends of that amendment will admit that it should go no further, and probably does go no further, than to withdraw and restrict the title where the land is particularly valuable for timber, and that is exactly the law to-day. The lands have all been classified, including the Indian lands that ultimately have become subject to homestead entry, in the public domain in my State and other States as well; and it is now a well-established fact, because it has been the law for several years, that where the land is principally valuable for timber it is not subject to homestead entry. The timber is sold separately, and the land, later on, opened up to homestead entry.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FERRIS. Mr. Chairman, I ask unanimous consent that debate be closed on this section and all amendments thereto in five minutes.

The CHAIRMAN. The gentleman from Oklahoma [Mr. FERRIS] asks unanimous consent that debate be closed on this section and all amendments thereto in five minutes. Is there objection?

Mr. LAFFERTY. Mr. Chairman—

Mr. FERRIS. How much time does the gentleman want, two minutes?

Mr. LAFFERTY. I would like to have five minutes. I asked leave to be heard on this last Wednesday. I was deferring then to the older Members.

Mr. WARBURTON. Mr. Chairman, I would like to have five minutes.

Mr. McCALL. I would like to have two minutes.

Mr. FERRIS. I hope debate will be closed as quickly as possible. We debated all last Wednesday on this.

The CHAIRMAN. The gentleman from Massachusetts is recognized.

Mr. McCALL. Mr. Chairman, I think it would be wise to have all stricken out after the enacting clause of this bill, so that unlimited discretion or jurisdiction practically should be given to the conferees. But there is nothing at all inconsistent with that program in adopting the amendments which are proposed by the gentleman from Nebraska [Mr. NORRIS] on his motion to recommit the bill.

I think that the House should express its opinion in favor of reserving from a homestead entry all these coal and mineral and timber rights. I am entirely willing to give better terms to the man who enters for the purpose of making a homestead, to

reduce the time from five years to three years; but he is not entering on his homestead for the purpose of securing mineral rights, and I think the House should avail itself of the opportunity of declaring in favor of the reservation of the mineral rights and water powers from the entry.

Mr. RUCKER of Colorado. Mr. Chairman, I must beg pardon for butting in here at this time, but I introduced in this House a bill just along the lines of the pending bill, although the Senate bill was the one that came in. Yet the committee has followed my views closely, and I am afraid that my child will be so disguised by these various amendments that I will not know it when it comes out, and therefore, moved by filial affection, as well as for the public good, I hope all these amendments will be voted down.

The amendment of the gentleman from Wisconsin [Mr. LENROO] and that of the gentleman from Nebraska [Mr. NORRIS] seems to be covered generally by existing law. That is apropos of what was said by the gentleman from Massachusetts [Mr. McCALL]. Those matters are all provided for by general statute. I represent a district that, I think, has more land in it now thrown open to public entry under the homestead act than possibly is represented by any other Member upon this floor; and inasmuch as it has been intimated that we of the West are in league with large corporations, and with people who are seeking to gobble up the public domain, I want to say that that is not a fact. There is no such influence behind this measure, and the mind of every Member on this floor ought to be disabused of that idea. What we are interested in, especially in Colorado, where nearly one-third of our public domain has already been withdrawn and thrown into forest reserves, and possibly forever withdrawn from public entry as well as from taxation, is to have more home makers in that State; and the only way we can get them there is to give a shorter number of years in which to prove up upon their homesteads and on other better terms. To-day there is no more irrigable land in the West, except that which can be irrigated by the expenditure of very large sums of money for the storing of water. The land underneath the natural flow of water has been disposed of, so that now, instead of a poor man being able to take up a homestead under present laws and regulations, it is a rich man's proposition. I will yield the floor to the gentleman from California [Mr. RAKER] in a moment.

Mr. RAKER. Mr. Chairman, I do not want the floor, but a Senator was here talking to the gentleman from Colorado [Mr. TAYLOR], the colleague of the gentleman now speaking, and he spoke to me, and I could not refuse to respond to the Senator's remark. I beg the pardon of the gentleman from Colorado for interrupting him.

Mr. RUCKER of Colorado. I was going to say that it is only a rich man who can now take up a homestead and live upon it for five years. He must have an income.

The CHAIRMAN. The time of the gentleman has expired.

Mr. RAKER. I ask unanimous consent that the gentleman have leave to proceed for five minutes.

The CHAIRMAN. The gentleman from California [Mr. RAKER] asks unanimous consent that the gentleman from Colorado [Mr. RUCKER] have five minutes more. Is there objection?

Mr. GARDNER of Massachusetts (from his seat). I object. Mr. RUCKER of Colorado. I only want to say that the irritability of my friend from California—

The CHAIRMAN. Objection is made to a further extension of the gentleman's time.

Mr. GARRETT. I make the point of order that no Member rose in his place and objected.

Mr. GARDNER of Massachusetts (rising). I object.

Mr. PICKETT. Mr. Chairman, I am in sympathy with the purpose of this measure to liberalize the homestead laws. I have, however, thought it proper for the House to consider suggestive amendments which have been carefully prepared by the Secretary of the Interior, under whose department these laws will be administered. This law purports to be patterned after the Canadian law, in so far as the time is concerned. It does not, however, follow the Canadian law in respect to its administrative features and the reservations which have been embodied in the amendments which have been offered on the floor.

I realize the force of the arrangement that has been made of having these matters considered in conference, but the questions having arisen upon the floor of the House, the action of the House might in conference be considered as expressive of the views of the House.

Mr. FERRIS. Will the gentleman from Iowa yield for a question?

Mr. PICKETT. Certainly.

Mr. FERRIS. I want to say that I am always interested in what the gentleman says, and we think alike on a great many

things. What I wanted to suggest to him is that, as he knows, being a member of the committee and being familiar with the land laws, there is a separate statute which deals with the timber and stone entries, and this act in no way changes that; and I wondered if it would not be satisfactory to the gentlemen to let that statute be considered as a separate matter, in order that we may not encumber this one relief measure for the homesteaders of the West.

Mr. PICKETT. I was not speaking particularly to the pending amendment. If we pass these various amendments, they will be suggestive to the conferees of the views of the House. I want to read an extract from a letter which I have received from the Secretary of the Interior relative to one of the amendments which have been offered—the one reserving the water-power rights to the Government—because it seems to me that the very object which the Secretary has in mind is to aid the development of our western country. He says:

The policy in this country has been for the Government to withdraw entirely from homestead entry lands which are believed to have a value for the development of water power or for irrigation, especially for reservoir sites. In the nature of the case, much of the land thus withdrawn may not be developed for water power or irrigation purposes for a considerable period of time, and some of it may never be so developed. Nevertheless, under the existing law the public interests can not be adequately protected except by prohibiting homestead entry. In many instances homesteaders would be glad to enter the land subject to the reservation of the right to the Government to take over, for itself or its grantees, such portions of the land as may hereafter be required for irrigation or water-power projects. This in no manner raises the question as to whether the State or the Nation has title to the water; but merely protects the public interest in the land necessary for the effective development and use of the water. If the pending bill is amended so as to provide for such a reservation, it will be possible for the Government to throw open to homestead entry considerable portions of the public domain which must otherwise remain tied up under reservations for water power or irrigation purposes.

Now, it seems to me that the position which the Secretary takes is a very plain and logical one, and is in the direct interest of the development of this western territory. The other amendments are of similar character. If adopted, they would go to conference for consideration.

The CHAIRMAN. The time of the gentleman has expired.

Mr. LAFFERTY. Mr. Chairman—

Mr. FERRIS. Mr. Chairman, will the gentleman from Oregon yield for a moment? I want to ask unanimous consent to close debate in six minutes and give the gentleman from Oregon five minutes of that time.

The CHAIRMAN. The gentleman from Oklahoma asks unanimous consent that debate on the paragraph close in six minutes. Is there objection?

There was no objection.

Mr. LAFFERTY. Mr. Chairman and gentlemen of the committee, I desire to say in the very beginning, that while I am from the State of Oregon, one of the largest public-land States in this Union, I fully concede to every other Member, no matter from what part of the country he may come, as much right to participate in this discussion and in this legislation as I have. I concede that every Member here has the right to express himself on the pending amendment. I do not take very much stock in the shunting of these different propositions off to conference committees when they have once been brought up on the floor and anything like a thorough opportunity has been had for expression of opinion by Members of this House.

But I want you, if you will be so kind as to do so, to bear with me one minute on the vital question involved in the pending amendment.

All of the valuable forest lands of this country are already in the forest reserves. We have 190,000,000 acres in forest reserves in the United States. They are not subject to homestead entry. This bill in no way affects the forest reserves of the United States. Beyond that, as a further safeguard, the distinguished Member from Iowa [Mr. PICKETT] introduced, and this House passed, a bill a year ago, authorizing the President of the United States, without authority from Congress, to withdraw any additional public lands in the United States for the purposes of conservation, and the President has exercised his right under that Pickett withdrawal bill and many other lands in the West have been withdrawn from homestead entry.

Now, what does this amendment mean? It means that in addition to all these safeguards you are going to say that when we deal out a little liberality with one hand to the homesteader with the other we will prevent him hereafter from entering on any land west of the Cascade Mountain Range in Oregon, Washington, and California.

As far as I am concerned, as far as my colleague from Oregon [Mr. HAWLEY] is concerned—and I have discussed this matter with him this morning—we would rather you would leave the homestead laws as they are than to withdraw from homestead entry and deprive the homestead settler from the right to go upon the lands in western Oregon, where we have a God-

given climate, beautiful scenery, and the most delightful place to live in the world.

Now, why put in this bill a provision preventing the homesteader from filing upon any land that in the opinion of the special agent is chiefly valuable for timber? The largest bodies of timber are already in the forest reserves. The Pickett withdrawal bill authorizes any large bodies of timber that may be found in isolated tracts hereafter to be withdrawn. Why not leave the lands open to homestead entry that are now subject to such entry and not further withdraw them from the reach of the actual settler?

Mr. MANN. Will the gentleman yield?

Mr. LAFFERTY. Certainly.

Mr. MANN. The gentleman knows that there is a proposition to restore certain lands granted to railroads to the public domain. Is that likely to be done?

Mr. LAFFERTY. I will say in answer to the gentleman's question that there is an immense railroad-land grant of about 2,300,000 acres in Oregon, which Congress required should be sold to settlers, and the railroad company flagrantly violated the terms of the grant. I have a bill pending here that if these lands shall be forfeited that all of them within the exterior boundaries of the forest reserve shall attach to the reserve and not be subject to homestead entry. But only a small portion of the railroad lands are inside the reserves. Most of these lands will go to actual settlers if my bill passes.

Mr. MANN. They are largely timber lands, are they not?

Mr. LAFFERTY. Most of the lands have some timber on them, but they are admirably suited for homes.

It is a foregone conclusion that the pending three-year-homestead bill will pass. That fact is most gratifying to the people of Oregon. We welcome the homesteaders from the East, and we also have many people in our own great city of Portland who will be glad to avail themselves of this opportunity to get a ranch.

The passage of this bill will be the realization of one of my ambitions. That I have worked hard for the measure here the past six weeks many Members can attest. In canvassing my colleagues for the measure I called last Saturday a week ago on no less a personage than the honorable Speaker of this House [Mr. CLARK] and asked him to make a speech in favor of the bill and he did so last Wednesday.

No one who has once enjoyed the balmy Indian summer days of Oregon or inhaled the exhilarating perfume of the firs and pines during the gentle rainfall of winter can ever be satisfied to live anywhere else on the face of the globe. The ideal climate, beautiful scenery, and pure air of that State is one of the greatest assets of this Nation. By this bill we extend a more generous and hearty welcome than ever before to the good people of this country to make homes in Oregon. There is no longer any "new country" to go to. But Oregon will remain young forever. Her snow-capped mountain peaks, her restful green forests, and her rugged coast, with its miles of hard-sand beach, washed by the foaming surf of the Pacific, form a picture that charms and attracts all who see it. In behalf of that State I express the hope that the pending amendment will be rejected and that the bill will be passed. [Applause.]

Mr. FERRIS. Mr. Chairman, this committee has had the call on four Calendar Wednesdays. I hope this amendment may be voted upon now and the next section read and the matter disposed of soon.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin.

The question was taken, and the amendment was lost.

Mr. KINKAID of Nebraska. Mr. Chairman, I call up the amendment that I offered last Wednesday.

The CHAIRMAN. The Clerk will report the next section, and then the gentleman's amendment will be reported.

The Clerk read as follows:

SEC. 2. That all existing pending entries shall be perfected under and according to the terms of this act, except entries under section 6 of an act passed and approved February 19, 1909, and section 6 of an act passed and approved June 17, 1910, providing for an enlarged homestead, and that as to entries under said sections this act shall not in any wise apply, except that the provision allowing a six months' residence during any calendar year shall apply to all homestead.

The committee amendment was read as follows:

In section 2, line 17, after the word "entries" insert "requiring residence upon the land under the homestead laws."

From the word "act" in line 19, strike out the balance of the section.

Mr. MANN. Mr. Chairman, the amendment, while it is printed in the bill with the words "shall be" in it, they are in fact not a part of the amendment. It is an erroneous print.

Mr. MONDELL. Will the gentleman from Illinois yield to me for a suggestion?

Mr. MANN. Certainly.

Mr. MONDELL. I am of the opinion that the amendment offered by the gentleman from Nebraska [Mr. KINKAID] in the way of a substitute is better than the original section or the section as proposed to be amended.

Mr. MANN. I was going to suggest that we strike section 2 out of the bill entirely. The whole thing will go to conference. I am not prepared to vote for the amendment offered by the gentleman from Nebraska, which no one has seen. The committee recommends striking out a part of the section, why not strike out the whole?

Mr. KINKAID of Nebraska. Will the gentleman yield?

Mr. MANN. Yes.

Mr. KINKAID of Nebraska. I will be pleased to inform the gentleman what the contents of the amendment are in order that he may be advised of it.

Mr. MANN. Before I vote on it I would like to have a chance to read it.

Mr. MONDELL. Mr. Chairman, I think the suggestion of the gentleman from Illinois an excellent one. I do not think it makes any difference whether there is any statement in the form of section 2 or not. I do not think it modifies the legislation at all. I think it is entirely superfluous both in the original form and in the form now proposed, and if we are going to adopt any form I think the form suggested by the gentleman from Nebraska is the better. But this is the situation. If this bill becomes a law it will take the place of the present sections of the Revised Statutes amended and will apply to all homesteads just as the present sections apply. Therefore there is no necessity for any direction in the form of legislation that it shall apply to pending entries. It seems to me the suggestion of the gentleman from Illinois [Mr. MANN] is a very proper one, that the entire section 2 should go out, and if in conference it is deemed advisable and necessary, then some further language could be added.

The CHAIRMAN. The Chair will ask the gentleman from Oklahoma if the words "shall be" appear in the amendment offered by the committee?

Mr. FERRIS. I have not the amendment before me, and have not examined it. I do not know what the original verbiage of the amendment is.

I do want to say that I hope the suggestion of the gentleman from Illinois [Mr. MANN] in the last analysis will be adopted, for the reason that this provision having passed the Senate, if it is rejected here, will be dealt with in conference, and then the ideas of the gentleman from Nebraska [Mr. KINKAID] can be disposed of at a time when we can look into it further.

The CHAIRMAN. The question is on agreeing to the committee amendment.

The question was taken, and the committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Page 3, line 19, strike out after the word "act," in line 19, the comma and the word "except" and all of lines 20, 21, 22, 23, 24, 25, and lines 1 and 2 on page 4.

The CHAIRMAN. The question is on agreeing to the committee amendment.

The question was taken, and the committee amendment was agreed to.

The CHAIRMAN. The gentleman from Nebraska [Mr. KINKAID] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Strike out section 2 and substitute the following:

"Sec. 2. That existing pending entries may be perfected either under the provisions of the law as amended by this act, or under the law as it existed previous to the passage of this act, at the option of entrymen."

Mr. KINKAID of Nebraska. Mr. Chairman, I regard this amendment as very important. If the bill be enacted into law as the committee amendment stands, it will leave it in such shape that there will be some doubt about whether or not it would deprive existing entrymen who have already resided on their claims, say, for six years, or any time more than five years, of the right to make their proof. It is stated that this will take effect not only as to future entries, but as to existing entries, without in express language saying so, and that therefore this section 2, as amended by the committee, may be dispensed with. It is said that it is superfluous. If it is to take effect immediately as to existing entries, then those who have lived on their claims more than five years would be cut off, would be debarred of the right to make their proof, to perfect their entries. Furthermore, Mr. Chairman, these pioneer homesteaders who have gone there on their claims to live, perhaps all their lives, ought to be encouraged in this. They made their entries with the right to stay seven years before they should make their

proofs, and they ought not to be debarred of the right to wait seven years before making proof. If the bill passes without an explicit statement upon this point, great confusion will arise, perhaps consternation, among entrymen. There is no class in the United States who is better posted upon their rights than these homestead entrymen; they diligently read the homestead laws, and those laws ought to be plain not only to the lawyer but to the layman.

Mr. BOWMAN. Mr. Chairman, will the gentleman yield?

Mr. KINKAID of Nebraska. Certainly.

Mr. BOWMAN. I would suggest that the gentleman's amendment in its present form, if it prevails, will give the opportunity to file upon land of any class. I suggest that it be modified so that it will apply only to those claims which have been filed prior to this time, and then it will probably accomplish the gentleman's purpose.

Mr. KINKAID of Nebraska. That is just what it does. It restricts to those—

The CHAIRMAN. The time of the gentleman from Nebraska has expired.

Mr. KINKAID of Nebraska. Mr. Chairman, I ask unanimous consent to proceed for one minute.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. KINKAID of Nebraska. Mr. Chairman, I regard myself as having been unfortunate in being absent last Wednesday, for only about 15 minutes, when the bill was under consideration, when the Speaker of the House took the floor and spoke in behalf of this measure. The Speaker very kindly referred to the Nebraska one-section act, which was passed pursuant to a bill which I myself introduced in the Fifty-eighth Congress. He also alluded to this act in a very friendly way, and I wish to acknowledge my appreciation of the remarks made by him in reference thereto, and also the appreciation of my constituents for his having given his support to the bill in the first instance. I acknowledge also my indebtedness to the then Speaker of the House, the distinguished gentleman from Illinois [Mr. CANNON], for allowing the bill to be taken up at the earliest possible time permitted by parliamentary discretion. I desire also to express my own acknowledgment and that of my constituents of our very high appreciation of the service of membership of the Public Lands Committee and of the Fifty-eighth Congress for passing the law which has proven to be so salutary. The wisdom of the act has been vindicated by the increase of population by more than 100,000 in the territory covered by the act as a direct result. All now agree, where many opposed it, even in Nebraska at first, that it was a wise enactment. [Applause.]

The CHAIRMAN. The time of the gentleman from Nebraska has expired.

Mr. FERRIS. Mr. Chairman, I ask unanimous consent that debate on the pending paragraph and all amendments thereto close at the expiration of five minutes.

The CHAIRMAN. Is there objection?

There was no objection.

[Mr. MORGAN addressed the committee. See Appendix.]

Mr. MANN. Mr. Chairman, I am quite in sympathy with the gentleman from Nebraska, and I would suggest to him that if his amendment is voted upon without the committee having full knowledge in regard to it and had chance to inspect it, although we are informed by the gentleman's admirable speech, that it would probably be defeated, and, while the purpose seems to be very fair, that it would probably be taken care of in conference if we strike out the entire section instead of agreeing to his amendment; and I hope the gentleman will see his way clear, after making his statement and calling it to the attention of the House, to withdraw his amendment so that we may, without voting upon it, just strike out the section and throw the whole thing into conference.

Mr. KINKAID of Nebraska. Mr. Chairman, the suggestion of the minority leader, the gentleman from Illinois, is entirely satisfactory to me. I have confidence that the joint conferees will give due and proper consideration to all these amendments which are now in contemplation, so, with the consent of the committee, I withdraw the amendment.

The CHAIRMAN. The gentleman from Nebraska asks unanimous consent to withdraw his amendment. Is there objection? [After a pause.] The Chair hears none.

Mr. FERRIS. Mr. Chairman, then, pursuant to the suggestion, I move to strike out section 2 entirely.

The question was taken, and the motion was agreed to.

Mr. FERRIS. Mr. Chairman, I now move to strike out all after the enacting clause and insert in lieu thereof in one amendment the bill as agreed to in the committee, which the Clerk will report as a substitute for the pending bill.

The Clerk read as follows:

That section 2291 and section 2297 of the Revised Statutes of the United States be amended to read as follows:

"SEC. 2291. No certificate, however, shall be given or patent issued therefor until the expiration of three years from the date of such entry; and if at the expiration of such time, or at any time within two years thereafter, the person making such entry, or if he be dead his widow, or in case of her death his heirs or devisee, or in case of a widow making such entry her heirs or devisee, in case of her death, proves by himself and by two credible witnesses that he, she, or they have a habitable house upon the land and have actually resided upon and cultivated the same for the term of three years succeeding the time of filing the affidavit, and makes affidavit that no part of such land has been alienated, except as provided in section 2288, and that he, she, or they will bear true allegiance to the Government of the United States, then in such case he, she, or they, if at any time citizens of the United States, shall be entitled to a patent, as in other cases provided by law: *Provided*, That the entrymen may be absent from the land for not more than five months in each period of one year after establishing residence, but in case of commutation the 14 months' actual residence as now required by law must be shown: *Provided*, That when the person making entry dies before the offer of final proof those succeeding to the entry must show that the entryman had complied with the law in all respects to the date of his death and that they have since complied with the law in all respects, as would have been required of the entryman had he lived, excepting that they are relieved from any requirement of residence upon the land.

"SEC. 2297. If, at any time after the filing of the affidavit as required in section 2290 and before the expiration of the three years mentioned in section 2291, it is proved after due notice to the settler, to the satisfaction of the register of the land office that the person having filed such affidavit has failed to establish residence within six months after the date of entry, or abandoned the land for more than six months at any time, then and in that event the land so entered shall revert to the Government: *Provided*, That the three years' period of residence herein fixed shall date from the time of establishing actual permanent residence upon the land: *And provided further*, That where there may be climatic reasons, sickness, or other unavoidable cause, the Commissioner of the General Land Office may, in his discretion, allow the settler 12 months from the date of filing in which to commence his residence on said land under such rules and regulations as he may prescribe."

The CHAIRMAN. The question is upon the amendment offered by the gentleman from Oklahoma [Mr. FERRIS].

The question was taken, and the amendment was agreed to.

Mr. FERRIS. Mr. Chairman, I move that the committee do now rise and report the bill as amended favorably.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. FOSTER, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (S. 3367) to amend section 2291 and section 2297 of the Revised Statutes of the United States relating to homesteads, and had directed him to report the same to the House with an amendment, with the recommendation that the amendment be agreed to and that the bill as amended do pass.

The SPEAKER. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The SPEAKER. The question is on ordering the bill to be read a third time.

The bill was ordered to be read the third time, was read the third time—

Mr. NORRIS. Mr. Speaker, I move to recommit the bill with the instructions which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the motion to recommit with instructions.

The Clerk read as follows:

I move to recommit the bill to the Committee on the Public Lands, with instructions to said committee to forthwith report the same back to the House amended as follows: Insert after line 2, page 3, the following: "No entry for a homestead or a patent, issued on the same, shall convey any right to salt, potash, coal, petroleum, natural gas, gold, silver, copper, iron, or other mineral within or under the land conveyed by the patent, or any exclusive or other property or interest in, or any exclusive right or privilege with respect to any lake, river, spring, stream, or other body of water within or bordering on or passing through the land covered by the entry."

The question was taken, and the motion to recommit was rejected.

The SPEAKER. The question is on the passage of the amended Senate bill.

The question was taken, and the bill as amended was passed.

On motion of Mr. FERRIS, his motion to reconsider the vote by which the bill was passed was laid on the table.

Mr. FERRIS. Mr. Speaker, I move that the House ask for a conference with the Senate on the disagreeing votes between the two Houses.

The SPEAKER. The gentleman from Oklahoma moves that the House ask for a conference with the Senate on the disagreeing votes of the two Houses.

The question was taken, and the motion was agreed to.

The SPEAKER announced the following conferees: Mr. FERRIS, Mr. TAYLOR of Colorado, and Mr. MONDELL.

LEAVE OF ABSENCE.

By unanimous consent, Mr. HELGESEN was granted leave of absence for 10 days, on account of sickness.

EXCHANGE OF CERTAIN COAL LANDS, CHOCTAW AND CHICKASAW NATIONS.

The SPEAKER. The Clerk will call the next committee, which is the Committee on Indian Affairs.

Mr. STEPHENS of Texas (when the Committee on Indian Affairs was called). Mr. Speaker, by direction of the Committee on Indian Affairs, I desire to call up the bill S. 3686, on the Union Calendar.

The SPEAKER. The House automatically resolves itself into the Committee of the Whole House on the state of the Union for the consideration of the bill S. 3686, with the gentleman from Colorado [Mr. RUCKER] in the chair.

The House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill S. 3686, with Mr. RUCKER of Colorado in the chair.

The CHAIRMAN. The Clerk will report the bill.

The Clerk read as follows:

An act (S. 3686) authorizing the Secretary of the Interior to permit the Missouri, Kansas & Texas Coal Co. and the Eastern Coal & Mining Co. to exchange certain lands embraced within their existing coal leases in the Choctaw and Chickasaw Nation for other lands within said nation.

Mr. STEPHENS of Texas. Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with.

The motion was agreed to.

Mr. STEPHENS of Texas. Mr. Chairman, I desire to state that this is the bill that was objected to by the gentleman from New York [Mr. AKIN] on last Monday, on the call of the Unanimous Consent Calendar. This bill passed the House and Senate during the last Congress, but was lost because it did not reach the President in time to receive his approval. I have the report here from the department, under date of January 30, 1912, which states that fact, and says:

A bill (H. R. 32531, 61st Cong., 3d sess.) was introduced February 6, 1911, and referred to this department for report. Report was made February 11, 1911, and is set out in House Report No. 2272, Sixty-first Congress, third session. The bill was amended as suggested in the report of the department and was passed by the House March 2, 1911. The discussion in the House of Representatives may be found in the CONGRESSIONAL RECORD of March 2, 1911, pages 4233-4235. It seems that the bill also passed the Senate. (CONGRESSIONAL RECORD, Mar. 4, 1911, p. 4400.) It is understood, informally, that the time was too short after its passage in the Senate to permit the bill to be presented to the President for his approval.

I will state that this bill has been carefully prepared by the department, and, as I stated, it has passed both House and Senate and has been favorably and unanimously reported by the Committee on Indian Affairs. It permits a coal company now operating coal mines in the Choctaw Nation to exchange lands not bearing coal for lands having coal underneath them. They have already spent quite a lot of money in prospecting this land, and they have not found coal in paying quantities on the land now leased to them, and they desire to exchange for other coal-bearing lands.

The Indians get a royalty of 8 cents per ton for all the coal mined from the lands now held under lease by this company under the act of 1898, and the lease runs for 30 years and covers 960 acres of land. The company now desires to exchange a portion of that lease—360 acres of it—and to be permitted to take the same amount of lands elsewhere that is ascertained to have coal under them. They have bored many holes through the strata where the coal should be found in the lands they now have, and they find there is no valuable coal in them, and they find that there is good coal on the tract which they want to substitute for their leased lands, and unless this coal company makes this exchange the Indians will get no royalty from the coal land the company desires to acquire by this bill. On that point the department says, in a letter quoted in a report on this bill:

If it be the purpose of Congress to authorize the immediate sale of the coal deposits of the Choctaw and the Chickasaw Nations, the propriety of permitting exchanges of this character might be doubted.

This letter was dated January 30, 1912. Since then we have authorized the segregation of the surface from the coal, and authorized the department to sell the surface of the land, holding the coal for the lease or future disposition by Congress. Therefore the conditions under which the department approves this bill have already arisen, and this bill, as I understand, would have been signed by the President as it passed the House and Senate last Congress.

The department, in its communication of January 30, 1912, makes the following statement:

If, however, the sale of the coal deposits is to be deferred to some future time, it would seem entirely just and equitable to the lessees and profitable to the Indians to permit relinquishment of lands which have been proven not to bear coal and the selection of other segregated coal lands in lieu thereof. The lessees have necessarily expended considerable money in developing the mines, and should be allowed to reap some benefit from this expenditure by mining coal which may be reached from the developments thus made. The Indians would by such an arrangement receive an income from the coal mined.

It is suggested that the word "nation," occurring twice in the title of the bill, be changed to the plural, "nations," in each instance.

Mr. Chairman, the gentleman from Oklahoma [Mr. CARTER] represents that district in Oklahoma, and I will yield the floor to him.

Mr. CARTER. Well, I have no desire to say anything unless some one wants some information about it.

Mr. FOSTER. Mr. Chairman, I would like to ask the gentleman a question. This is Indian land that is to be leased, is it?

Mr. CARTER. It is.

Mr. FOSTER. And the gentleman's knowledge of the condition of affairs there leads him to believe that all the rights of the Indians are taken care of in this proposition?

Mr. CARTER. Oh, thoroughly.

Mr. FOSTER. And they will get the full value of the coal that underlies that land, and no harm can come in that way?

Mr. CARTER. They get 8 cents a ton royalty, which, on the basis of a 4-foot vein, would give them about \$320 per acre.

Mr. FOSTER. This lease is to be made under the laws of Oklahoma?

Mr. CARTER. There is no provision for leasing coal lands in Oklahoma. If there were, there would be no necessity for this bill. But this gives them the coal lands under the same provisions exactly as those under which the original leases were made.

Mr. FOSTER. They made an original lease to these parties, and they found no coal under the land which they had.

Mr. CARTER. That is the situation.

Mr. FOSTER. So they now ask to get other lands in lieu of what they had taken?

Mr. CARTER. That is correct.

Mr. FOSTER. Has this company spent money only for boring to ascertain the location or whereabouts of the coal, or have they sunk a shaft?

Mr. CARTER. This Missouri, Kansas & Texas Coal Co. has done quite extensive mining and probably has taken out one-half or more of the coal in the coal-bearing part of the lands under lease. The part that is proposed to be relinquished here has no coal or very little, anyway. That comes about on account of the lease having been made before the coal crop was defined.

The lease was made, if I remember correctly, about the year 1901, and in 1902 and in 1903 the crop of the coal was definitely defined. When application was made for this lease it was presumed that the crop of the coal ran regularly, and the lease was made upon that basis, but as I now remember, when the property was properly prospected and developed it was discovered that the line of the crop was very uneven and broken, and left within one of these leases about 160 acres and in the other about 320 acres of noncoal-bearing land. Now, it is proposed to drop back and take 120 acres in one tract and 360 acres in another of coal-bearing land in exchange for the land that was leased, which contained no coal.

Mr. FOSTER. Now, I would like to ask another question. Is this coal of more value now in Oklahoma than it was when these parties secured the original lease?

Mr. CARTER. Decidedly not. It is of less value on account of the oil and the gas development that has occurred there since the lease was made.

Mr. FOSTER. And it is the gentleman's opinion that 8 cents a ton royalty, which goes to the Indians, is sufficient pay for that coal at this time?

Mr. CARTER. I think it is, but this bill does not establish an arbitrary rate of royalty.

Mr. FOSTER. But it gives them the same rate now that they originally had?

Mr. CARTER. It gives them the same rate that they have now under the rules and regulations of the department. The rate of royalty is established by the rules and regulations of the Interior Department, and may be raised or lowered as the necessity demands.

Mr. MANN. What does the gentleman mean by "necessity demands"? What is the rate under this lease?

Mr. CARTER. I did not catch what the gentleman said.

Mr. MANN. The gentleman said that the rate may be lowered or raised as the necessity demands. What does the gentleman mean by that?

Mr. CARTER. I mean this: If the operators could not work their mines and pay an 8-cent per ton royalty, the Secretary of the Interior might, in his discretion, decrease the royalty. If it was found that the royalty was too small, the Secretary of the Interior might increase the royalty.

Mr. MANN. What is the rate in the lease?

Mr. CARTER. There is no arbitrary rate in the lease. The rate is left to the discretion of the Secretary of the Interior;

but the established rate, under the present rules and regulations, is 8 cents per ton.

Mr. FOSTER. So that they are paying 8 cents now upon the coal that they are mining?

Mr. CARTER. They are paying 8 cents a ton upon all coal upon a mine-run basis. The gentleman from Illinois [Mr. FOSTER], having had some experience with the mining business, knows that that is a fair royalty for this coal.

Mr. FOSTER. What is the quality of that coal?

Mr. CARTER. It is a very fair quality.

Mr. FOSTER. Is it high-grade bituminous coal?

Mr. CARTER. It is high-grade bituminous coal; very good bituminous coal.

Mr. FOSTER. What does that coal sell for in Oklahoma, say, at the mine?

Mr. CARTER. It will bring about \$3 a ton, I should say.

Mr. MANN. The gentleman does not mean at the mine?

Mr. CARTER. I do not mean at the mine. I mean in the mining towns. Just what it sells for at the tippie at the present time I do not know right now. I think it costs something like \$1.50 to \$1.75 a ton to produce it f. o. b. the cars.

Mr. FOSTER. To produce the coal?

Mr. CARTER. Yes. The pitch is very steep, and it has other disadvantages which cause it to be a very expensive coal to mine. For instance, at many places the vein is very thin, often under 3 feet; in others the top or bottom, or both, are bad; in still other instances the veins are faulty and highly impregnated with gases.

Mr. FOSTER. If the gentleman understands it correctly, that it costs \$1.75 a ton to mine that coal, then the gentleman's statement of \$3 a ton is not much out of the way.

Mr. CARTER. I probably put that a little high for the mining towns. I think it does sell for about \$3 a ton at retail in many of the towns.

Mr. MANN. You can buy all the coal you want at the mine, where it is mined, for \$1 to \$1.50 a ton.

Mr. MADDEN. The cost of mining is not over 90 cents.

Mr. CARTER. The cost of producing this coal is \$1.50 to \$1.75, as I remember it.

Mr. FOSTER. Not mine-run coal?

Mr. CARTER. Of course I do not mean to say that the coal digger gets \$1.50. I do not remember exactly what the coal digger gets; but when the coal is finally loaded on the cars and all expenses paid, including wages, not only of coal diggers but of daymen, topmen, office force, powder, fuel, repairs, interest on bonds and other investments, officials' salaries, and other overhead charges, you will find that estimate is not exaggerated.

Mr. FOSTER. As I understand it, this bill simply gives this company the right to select coal lands to the same number of acres as the land already selected, which has been found to have no coal under it.

Mr. CARTER. That is the purpose of the bill.

Mr. FOSTER. Has it been the custom to do that sort of thing in Oklahoma or is this the first case?

Mr. CARTER. No—

Mr. FOSTER. What do they do in oil, and matters of that kind down there?

Mr. CARTER. Oil is entirely different. This particular tract of land is what is known as the segregated mineral land that was set aside by the Secretary of the Interior under the law of July 1, 1902. The only way by which any mining can be done upon these lands is by a lease approved by the Secretary of the Interior. It is different with the oil leases. The act of July 1, 1902, prevents any further leasing of this coal land at all, and were it not for that act we would not have to pass this law to-day.

Mr. FOSTER. This bill simply gives this company the right to lease this additional coal land?

Mr. CARTER. Yes; that is all.

Mr. FOSTER. How much land have they there in which there is coal, under their original lease?

Mr. CARTER. Six hundred acres.

Mr. FOSTER. That they still have?

Mr. CARTER. Yes. After releasing this 360 acres they will have 600 acres.

Mr. FOSTER. They want to get 300 acres more?

Mr. CARTER. They want to get 360 acres more and to release 360 acres of lands barren of coal.

Mr. FOSTER. And get 360 acres of land that has coal under it?

Mr. CARTER. Yes.

Mr. AKIN of New York. Is it not a fact that what they propose to re-lease has been worked out and exhausted?

Mr. CARTER. That is not the fact.

Mr. AKIN of New York. I am very well informed that such is the case.

Mr. CARTER. I will state to the gentleman that I do not believe his information is as good as mine, because I was mining trustee and had personal supervision of this property when this lease was made.

Mr. FOSTER. How long has it been in operation?

Mr. CARTER. Since 1902. I was in touch with that mine for three years afterwards, and I remember very distinctly when it was discovered that a part of this lease was noncoal-bearing land.

If my memory serve me correctly, this company made application for this change as soon as the mistake was discovered. I think I made the investigation and reported to the Secretary of the Interior recommending favorable action, but the report probably reached the department too late. But that is immaterial. If the coal has been worked out, it makes no difference as far as the Indian is concerned, unless the gentleman desires to stop the production of coal in Oklahoma. The only method on earth by which the Indian can get any royalty whatever is by some legislation permitting the coal to be leased. The coal operator can not operate, can not take the coal out, even the Indians can not take it out themselves unless we give them permission. The Secretary of the Interior can not give that permission. What will be the result? If we do not pass this legislation these lands are going to be unproductive. If we pass the bill the Indian will get royalty from about 480 acres of coal land, whereas he now gets nothing. Furthermore, I understand that the work of the Missouri, Kansas & Texas Co. has proceeded very near the limit of its lease.

Gentlemen familiar with the coal business know that as soon as the company gets the coal out the mine will be abandoned and fill up with water, and the value of the coal on this 480 acres will be destroyed, or greatly damaged and rendered almost impossible to mine.

Mr. AKIN of New York. Will the gentleman yield?

Mr. CARTER. I will.

Mr. AKIN of New York. Is it not a fact that there are companies willing to go in there and pay a much higher tonnage than these people pay?

Mr. CARTER. I believe that if this leasing system were opened up generally to-day you would get very few bona fide applications for leases of the segregated mineral lands of Oklahoma, even at the present price.

Mr. AKIN of New York. I understand they are paying as high as 15 cents a ton.

Mr. CARTER. Oh, that may be true; if a vein of coal lies flat on the top of the ground and is coal of first-class quality. I can imagine conditions so favorable that an operator might pay 50 cents, but they do not exist in the Choctaw field.

Mr. AKIN of New York. But they are in the way so that others can not get in.

Mr. CARTER. They are not in the way. There are to-day more than 100,000 acres of these coal lands under lease and the mines are running at about one-tenth their capacity. Now, the gentleman seems to have some fear that this bill gives some company some special privilege. I will say that no other company would go in there for this land in its present condition. Gentlemen who know anything about the coal-mining business know that no company would put in expensive machinery for mining deep down in the earth with only 120 acres of coal lands in sight. They could not afford to do it. So if some legislation of this kind is not adopted you are going to destroy the value of this property to the Indians.

Mr. BOWMAN. Will the gentleman yield?

Mr. CARTER. Certainly.

Mr. BOWMAN. Does the gentleman know of any royalty rate on bituminous coal that amounts to \$1, 50 cents, 25 cents, 20 cents, or 15 cents a ton in any part of the United States?

Mr. CARTER. I am frank to confess that my first-hand knowledge about the royalties on coal is very limited—limited, in fact, to this very field. There was a time when there was paid in this field 15 cents per ton on a screen basis.

Mr. BOWMAN. I will say that the usual rate on bituminous coal in any part of the United States does not exceed 8 or 10 cents a ton; on good veins lying level 8 cents per ton is a common rate, and very much is mined at 3 and 4 cents per ton.

Mr. MONDELL. Will the gentleman yield?

Mr. CARTER. I will.

Mr. MONDELL. It seems to me that there is only one serious question connected with this legislation, and that is whether or not this coal-mining company is seeking to abandon some bad-working ground and thin veins within the field of its operations. I do not say that it might not be proper to do that if we knew all the facts.

Now, I think I understood the gentleman from Oklahoma to say that the land that these people propose to abandon is land

beyond the crop line of the vein, land beyond the point where the vein is of a workable character. If we had a plat of the locality and of the crop line we could judge very much better of the facts regarding the legislation. But in roughly drawing a township plan here I find that some of the land proposed to be abandoned would seem to be—I do not say that it is—some of the land proposed to be abandoned seems to be within the body of the coal area that the company is mining.

Mr. CARTER. I do not catch the exact purport of the gentleman's question.

Mr. MONDELL. I say that some of the land you propose to let them abandon seems to be within the area that the company is mining. In other words, this company may be attempting to relieve itself from mining expensive coal by dropping an area in the midst of its operations and going to other lands where the coal seam is thicker and of a better quality and the roof conditions are better. Manifestly it would not be in the interest of the Indians to allow the company to leave this coal that can be mined or ought to be mined.

I want to know if it is very clear in the mind of the committee—for it is not clear in my mind, with the rough draft that I have made of the land described—that the lands you propose to exclude from the lease are beyond the line of workable coal. It would rather appear that they were in the main body of the coal, and therefore might be lands workable, but probably not advantageously workable.

Mr. CARTER. Now, Mr. Chairman, I have to speak in regard to that almost wholly from memory. I have to trust my memory almost two years back, or, at any rate, a year, when the House passed this bill before.

My recollection of the matter is this: That practically all of the coal land that was sought to be released was noncoal bearing. The gentleman from Wyoming [Mr. MONDELL] will know that this might not be literally true. It may be that some small subdivision, say 10 to 40 acres, contains an acre or two of coal, but, practically speaking, the land sought to be released is barren of coal.

Mr. MONDELL. Why is it necessary to exclude that land from the lease, unless it be that the company wants to be relieved of the obligation to take from that land such coal as the land contains?

Mr. CARTER. The necessity for releasing that particular tract, if that is what the question is directed to, would be that it contains not sufficient coal to be valuable for mineral purposes.

Mr. MONDELL. I can see no objection to including in the lease a 40-acre tract if it contains only 2 acres of coal, because they are not going to mine coal where there is no coal.

Mr. CARTER. That would be true if the lease were not restricted to a certain number of acres, but here you have a restriction, and that restriction I think everybody will agree, makes it about as small as a coal lease of that character of coal should be. Under these limitations a coal operator will naturally be seeking to get every acre of workable coal that he can get, and he will necessarily eliminate every acre of noncoal-bearing land possible, so that if it came to a question of deciding on a 10-acre block, with only 2 or 3 acres of coal in it, I think he would naturally leave out that 10 acres and include another 10 with enough coal to be valuable for mining purposes.

Mr. MONDELL. But if he has a 40-acre block or a 10-acre block, which contains only 2 acres of coal, and it is at the margin of the workable coal area, he ought not to be relieved from the necessity of working it out, because if he is relieved and abandons his entries leading to that coal it can never be thereafter worked.

Mr. CARTER. Again, that might be true if there were no opportunity for that coal to ever be worked, but I am pretty sure that in this case most of the land re-leased lies next to other unleased land, and could be included in other leases.

Mr. MONDELL. But if the gentleman will allow me right there. The gentleman knows how coal veins occur, and he knows if you are following a vein toward the limit of workable area some other operator can not go over on the other side and bore through the ground—

Mr. CARTER. Oh, if the gentleman will stop right there—he completely misunderstands what I said. I did not say that one operator might go on the lease of another and conduct operations. I did not say that you could go on the land adjoining this lease or any other unleased land and mine coal. On the contrary, you can not, under the present law, touch the other unleased land, but I do say that some of this land which is re-leased probably lies next to land which is unleased, and at the proper time, when this unleased land is taken up and worked out, the other can be worked out along with it. As I remember, this 120 acres re-leased by the Eastern Coal Mining Co. is a

narrow strip of land lying between two leases and may not be worked in any manner whatever unless it is worked from the openings that are already made through one of these mines on each side of it.

Mr. MONDELL. The gentleman does not claim—and there is nothing in the report to enlighten us upon that fact—as to whether or not the lands proposed to be abandoned are beyond the possible limit of profitable mining, or, on the contrary, whether they may not be lands that the company simply desires to be relieved from the necessity of mining because the mining costs too much—and may I make one other observation right there?

Mr. CARTER. I will ask the gentleman to permit me to answer that, and then he can make his observation afterwards. I tried to make myself very plain upon that point. I stated to the gentleman as plainly as I could that there might be some little portion of a re-leased subdivision which contained coal, but there has been no attempt to re-lease any coal-bearing land; and certainly an operator would not let any land he could profitably mine lie idle for two or three years waiting a change in the lease, and that is the time this application has been pending. It seems to me, if that were true, this operator certainly would have mined the coal in these two or three years that he has been waiting to get this change made in this lease.

Mr. BOWMAN. Mr. Chairman, will the gentleman yield?

Mr. CARTER. Certainly.

Mr. BOWMAN. Does not your leases provide that your coal shall be mined? Do they not say so many acres of coal shall be minable?

Mr. CARTER. No.

Mr. BOWMAN. Is there any law which will provide for a company mining coal upon which a reasonable profit could not be made? In view of the provisions or rules of the department, if a miner can prove that the claim can not be profitably mined, will not a provision be made reducing the royalty?

Mr. CARTER. I think I stated that very clearly.

Mr. BOWMAN. And is it not also a fact that after a company has built its works and driven its gangways to a given piece of coal it will mine every ton it possibly can even at a loss in order to keep the operation going and get out the first cost?

Mr. CARTER. I think that is perfectly patent to anyone who understands anything about coal mining.

Mr. BURKE of South Dakota. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I will be glad to.

Mr. BURKE of South Dakota. As I understand it, at the time the lease was made the law provided that leases could be made by the nations, said leases to be approved by the Secretary of the Interior.

Mr. CARTER. Yes.

Mr. BURKE of South Dakota. And the act of July 1, 1902, provided that no further leases should be made. Is that the case?

Mr. CARTER. Yes; that is true.

Mr. BURKE of South Dakota. And, again, in the act of April 26, 1906, it was provided that there should be no further leases.

Mr. CARTER. That is true.

Mr. BURKE of South Dakota. I would like to ask the gentleman if it was not the theory at that time that these mineral lands would be disposed of and sold and it was thought best not to make any further leases?

Mr. CARTER. That was the purpose.

Mr. BURKE of South Dakota. We have recently passed a law providing for the sale of the surface of these lands, or, rather, selling the lands and reserving the minerals. Therefore there can be no longer any objection to leases being made for mining the coal.

Mr. CARTER. I can see none in the world.

Mr. BURKE of South Dakota. Then would it not be wise to enact legislation providing for the making of leases so that if anybody desires to lease lands or lease the mineral that they may have the right to do so without coming to Congress with a special bill every time a lease is made?

Mr. CARTER. The gentleman from South Dakota is unquestionably correct. Congress should not be burdened with such ministerial duties as these. I have called the attention of the Indian Office to the matter he discusses. Just this morning I talked to the Assistant Commissioner of Indian Affairs, and he told me he would confer with the commissioner on a plan looking to the leasing of such lands under similar conditions to the old leases. Especially did he speak of the necessity for safeguarding just such cases as these without compelling them to come to Congress and take up the time of the House and Senate

with such matters, which ought to be purely administrative propositions.

Mr. BURKE of South Dakota. Well, the gentleman will probably say that it will be in the interest of the Indians if all the lands could be leased right now under terms under which these lands are proposed to be leased.

Mr. CARTER. I should certainly think that is true, if we were convinced that the coal will be worked.

Mr. BURKE of South Dakota. I understand; that is what I say, if they can be worked. Now, in this particular instance of these two companies, unless we do authorize this change the mine will not be operated, probably, and the Indians will not receive any royalty.

Mr. CARTER. That is true, and furthermore, as I have just stated, this company will abandon its plant as soon as it takes the coal out. It will pull out the pillars and remove all improvements. What will then happen is common knowledge to all coal men. The mine falls in and fills up with water, destroying all opportunity to take this coal out at the old openings, and it is extremely doubtful if anyone will go to the expense of reopening the mine for such a small area of coal.

Mr. BURKE of South Dakota. And this bill does not extend the period of the original lease.

Mr. CARTER. It does not. They will have to get the coal out within the time limit of their original lease.

Mr. MANN. I understood the gentleman to say these people were waiting upon something of that sort. Why do they want to wait; why not go ahead and mine the coal?

Mr. CARTER. Perhaps I was unfortunate in the word I used. What I meant was they were waiting to have this legislation passed. I did not mean to say that they had stopped the operation of the mine at all. The mine is in full-blast operation and has been every day they could work under the adverse conditions of mining coal in Oklahoma.

Mr. MANN. Have they mined practically all the coal on the land which they now have?

Mr. CARTER. They have not.

Mr. MANN. Then why are they so anxious to get additional land now, on the ground that the plant will stop?

Mr. CARTER. They are anxious to get it for two reasons. First, because it is important to know just what direction and character the openings must take; secondly, because every man wants all the area of coal he can work from one opening or set of openings. And there is some justice on their side when you consider they were given 960 acres which they themselves thought and which the Interior Department thought contained coal. All they ask is that they have the same area of coal-bearing land they thought they were getting under their lease and which the department thought it was giving to them.

Mr. MANN. They first got 960 acres, under a 30-year lease, 10 or 11 years ago—in 1901.

Mr. CARTER. I think so.

Mr. MANN. Now, how much coal is there left on the land embraced in the 960 acres and not embraced in this bill?

Mr. CARTER. Of course, I could not tell that accurately, but by the way the other mines work and by the way this particular company works—

Mr. MANN. I do not want to judge of how some other mine works but specifically how this mine works.

Mr. CARTER. I should not think there is a man in the State of Oklahoma who could tell offhand just how much coal he has mined nor what acreage has been taken out of a certain one of his mines.

Mr. MANN. I do not suppose there is a man on earth who can not tell approximately the acreage mined.

Mr. CARTER. But the gentleman wanted the specific fact.

Mr. MANN. In this case—not compared with some other mine. I want to know in relation to this mine how much of this particular land remains unmined.

Mr. CARTER. Well, I have not been in the mine for three or four years.

Mr. MANN. I supposed the gentleman was furnished with the information.

Mr. CARTER. Unfortunately, I will say to the gentleman from Illinois, I have not that exact information, but I should say that not less than 50 per cent of this coal has been mined, and probably 60 per cent or 70 per cent.

Mr. CAMPBELL. Will the gentleman yield for a question?

Mr. CARTER. I yield to the gentleman from Kansas.

Mr. CAMPBELL. Bearing on the question asked by the gentleman from Illinois, my recollection is that I reported this bill a year ago. I talked with the superintendent of the mine at that time and my memory is that he told me that they had still enough coal to keep the mine in operation a year and a half or two years, and at the end of that time there would

be taken out practically all the coal covered by their lease or the coal adjacent to the land proposed to be leased, and that it was desirable to continue the work of mining in that direction.

Mr. MANN. If the gentleman will pardon me, a number of leases were made on these Indian coal lands in 1901, 30-year leases. Of course, they might mine all inside of 30 years; but for those leased under these leases, if the coal is taken out of the ground so there is very little of it left there, then it becomes a very valuable lease.

Mr. CAMPBELL. But in this case here is a portion of the ground that has coal that is adjacent to this shaft that would not be taken out through a separate shaft. It could only be operated through a shaft that has already been sunk and is in operation.

Mr. MANN. Is the gentleman quite confident this could not be taken out by a separate shaft?

Mr. CAMPBELL. Oh, it could be, but it would necessitate the extension of railroad switches and sinking an additional shaft.

Mr. MANN. Then it is certainly a very great blunder on the part of the department or cute on the part of the lessee if they left out a piece of coal land which subsequently would have to be mined through the same opening. It is a very great blunder one way or the other.

Mr. CAMPBELL. I will say to the gentleman from Illinois they could do that under this lease—that is, they had the maximum of acreage under their first lease—but they discovered that some 300 acres were not coal bearing and they want to substitute coal-bearing lands for them.

Mr. MANN. I do not remember that there was any maximum provision of 960 acres in any law that we passed.

Mr. CAMPBELL. That is the maximum.

Mr. CARTER. That is in the law of June 28, 1898.

Mr. MANN. Certainly, when the department was leasing 960 acres, it did not lease it in such a way that no one could mine it except through the opening this lessee made. I think the gentleman is mistaken about it being necessary to mine this land through this opening.

Mr. CAMPBELL. If the gentleman from Illinois [Mr. MANN] were familiar with the topography of that country, he would see that it does have some practical application. It does have in this case. It would be very difficult to reach some of these coal-bearing lands.

Mr. MANN. Does not the gentleman think, then, if these people have constructed their plants for the purpose of mining 960 acres of land, and that that is practically exhausted and their plants constructed, that they can afford to pay a little more royalty for a piece exactly adjacent that has to be mined through the same opening?

Mr. CARTER. Let me say, Mr. Chairman, that the amount of royalty is left entirely with the Secretary of the Interior.

Mr. MANN. Oh, I heard the gentleman say that a moment ago, and he may be correct.

Mr. CARTER. That statement is correct.

Mr. MANN. But if the gentleman was no more correct about that than he is about the cost of mining coal and about the price of coal, we would be badly off.

Mr. CARTER. I stand by the statement that coal sells for \$3 per ton in the towns of Oklahoma.

Mr. MANN. If the coal is sold at \$3 a ton, then they ought to pay a royalty much higher than 8 cents a ton. They pay that in my own State, where the coal sells for \$1 a ton at the mines, and sometimes for less.

Mr. CARTER. Then the coal in his locality must be mined under much more favorable conditions. Ours is considered to be the most difficult coal to mine anywhere in the western part of the country.

Mr. MANN. I doubt that.

Mr. CARTER. It is. Because it is a very steep-pitch coal. Some of the coal there pitches more than 50°—almost straight down. It is highly impregnated with gas; it almost invariably has a bad top and a bad bottom, and many of the veins are less than 3 feet thick.

Mr. MADDEN. What is the thickness of the veins?

Mr. CARTER. The thickness of the veins runs from about 2 feet to 4½ feet.

Mr. MANN. My distinguished friend from Oklahoma has been in the House for quite a while, and he must remember that we have had a good many controversies in the House concerning the royalty that should be paid for coal. My recollection is that the gentleman from Oklahoma was one of those who voted practically in favor of a royalty of 50 cents per ton upon coal up by the North Pole. But the gentleman thinks that 8 cents a ton royalty now is enough for coal in a civilized community.

Mr. CARTER. I think the gentleman is mistaken about that, unless my memory is at fault. I think I voted for an amendment fixing the royalty in Alaska at 25 cents a ton. I think I followed the lead of the distinguished gentleman from Illinois on that score. [Laughter.]

Mr. MANN. The gentleman is mistaken for once. He did not follow me, and I think I was wrong. I voted on the motion to suspend the rules, which required a two-thirds vote to pass, and I do not think it received 25 per cent of the vote of the House, because the royalty was not supposed to be high enough. A royalty up at the North Pole, where they may need fire, but where they have not much occasion for it, was from 3 to 7 cents a ton, if I remember aright.

Mr. CARTER. Was there not an amendment offered to that fixing the rate at 25 cents a ton?

Mr. MANN. There may have been amendments that were attempted to be made. The motion was to suspend the rules, and there could be no amendments proposed. Various amendments were argued in favor of 50 cents a ton, and it was declared that the testimony in the Ballinger-Pinchot investigation showed that the coal was worth that. I think the gentleman had better look up his record. I think the gentleman voted against the bill.

Mr. CARTER. Grant that I did, I understand the veins of coal in Alaska are from 6 to 10 feet thick. There are no such veins as that in Oklahoma.

Mr. BOWMAN. They are very hard to find. The gentleman will find that out.

The CHAIRMAN. To whom does the gentleman from Oklahoma yield?

Mr. CARTER. I will yield now to the gentleman from Illinois [Mr. FOSTER].

Mr. FOSTER. I want to say that there were some statements made by officials of the Interior Department at that time in reference to the great value of the Alaska coal, statements which have since been denied; and it is claimed that a great deal of the coal in Alaska is in ledges, and for that reason it is hard to mine and is not of the value it was thought to possess at the time. But I would like to know if that is true or not. Which of the statements are we to believe as to the value of the coal in Alaska?

Mr. CARTER. I understand—

Mr. MADDEN. They quarry the coal in Alaska. It is all on the surface. [Laughter.]

Mr. MANN. There will probably be more conflicting statements, I will say to my colleague from Illinois [Mr. FOSTER], when they get additional information on the subject.

Mr. FOSTER. Officials of the department came back from a trip up there and made these statements, differing from those which had been made by the officials of the Geological Survey. Does not the gentleman remember that?

Mr. MANN. I remember that, but those statements may be subject to correction, just as is the gentleman's statement that it costs \$1.50 to the miner to mine a ton of coal. Such coal could not be mined anywhere in the world.

Mr. FOSTER. That may be true.

Mr. MANN. It may be that the Secretary of the Interior is one who can pass upon it. The gentleman is not a miner.

Mr. FOSTER. Here is a gentleman from the State of Washington [Mr. WARBURTON] who says it costs that much to mine coal in his State.

Mr. CARTER. Now, Mr. Chairman, I want to make a statement in my own time, if I may be permitted to use it. These minerals are the property of the Choctaw and Chickasaw Tribes.

Before this leasing system began this coal was worked under tribal contracts. The act of June 28, 1898, made provision for the leasing of coal and asphalt in this field. This act recognized all tribal contracts under which bona fide operations had been previously conducted and left the fixing of the royalty to the Secretary of the Interior. The Secretary fixed the royalty first at 15 cents per ton, screen basis, then changed it to 8 cents, mine run, and that rate has remained in force for 12 years with no protests by either department, Indian, or operator; in fact, no kicks anywhere except on the floor of this House.

The act of July 1, 1902, came along and prevented any further leasing of these lands. It stopped the leasing completely. In the meantime, about 100,000 acres, as I remember, had been leased by operators, and was being operated. The act of July 1, 1902, also provided for the segregation of these lands and the taking of a survey of them. When this survey was made it was found in a great many instances that the companies had leased lands which did not contain coal.

This is a simple proposition of this fatal mistake with two companies, one with about one-third of the leased land barren of coal and the other with one-eighth barren. We do not seek to change conditions in the slightest. This bill simply provides that this barren land in these two leases be relinquished, and an equal amount of coal-bearing lands taken in lieu thereof under the same conditions as the original lease. What I have to say in reply to the criticism which the gentleman from Illinois [Mr. MANN] makes about the original conditions of those leases is that the gentleman from Illinois was himself a Member of the House at the time that law was passed, and I was not; and if the law did not suit him, it seems to me that was the time for him to make his complaint. If it does not suit him to-day, and he will bring in an amendment to it, I shall be very glad to consider it with a view to giving it my support, because I have the very greatest confidence in the judgment of the gentleman from Illinois and in his ability to create good and successful legislation. [Applause.]

But there was one other proposition which the gentleman from Illinois spoke about, and that was this: He indirectly criticized somebody for the manner in which these leases were made. Whether his criticism is correct or not I will not assume to say, but I will say that he did correctly describe the conditions that exist in a great many instances. For instance, two leases have been made of lands within a quarter of a mile of each other, leaving from 40 acres to 100 acres between, which probably never will be worked except by the companies that have the leases on one side or the other. That is an unfortunate condition, but it exists, and, in justice to the Indians, we ought to provide some way by which this coal can be taken out.

Mr. FOSTER. Does not the gentleman imagine that the companies will be back here, wanting an act of Congress to permit them to lease this extra land on the ground that they are the only people who can work it?

Mr. CARTER. Undoubtedly they are the ones who can work it most successfully.

Mr. BOWMAN. After a mine is once worked out and filled up with water, do gentlemen appreciate the expense and almost the impossibility of opening it up?

Mr. CARTER. Indeed I appreciate that and have spoken to that point. The gentleman from Illinois asked why it was that these gentlemen are so persistent now, with only half of their coal mined, in their efforts to get this new land added to their lease. It is because it is necessary, almost from the time the shaft is sunk, for the company to have some knowledge of the direction and scope its openings will take. For instance, if it is found necessary by reason of the topography of the surface to sink the slope near the limit of the property, they might not run a cross entry both ways, but could open their rooms from the main entry, but cross entries would be run both ways if the area of coal justified.

Now, this company wants to know what it is going to do and which way it shall run its entries. It probably will run an entry out through the balance of its property in the direction of this land which it desires to lease, but will not run that entry unless this land is leased.

I want to say further that there is no provision to make the company take the coal out of the mine at a loss, if it wants to leave it there. In that case the Indians might not only lose the royalties on this 480 acres, but might also lose the royalties on a part of the coal in the existing lease, which the operator might be able to prove he could not operate at a profit.

I think that is all I desire to say, Mr. Chairman, if no one desires to ask any further questions.

Mr. MONDELL. Mr. Chairman, I have not been conspicuous on the floor of the House as an advocate of what some gentlemen call conservation. I believe I have always been in favor of a true and proper conservation of the Nation's resources, but I have never made a fetish of that sort of thing. I have noticed, however, that when a measure comes up on the floor of the House that involves what gentlemen are pleased to term conservation there are certain gentlemen who always become much interested.

Now, I want to call to the attention of the extreme advocates of conservation the very great danger that lurks in this legislation from their standpoint. We all know that coal at the pit mouth in the United States is about the cheapest article produced, taking into consideration the investment in the mines and the labor involved. I have in my hand a document, the Mineral Resources of the United States, for 1910, and I find that the average price of bituminous coal at the pit mouth in the United States was \$1.12 a ton—a marvelously cheap product. The gentlemen of the Mining Bureau and the Geological Survey tell us

that so intense is the competition in the mining of coal that operators find it very difficult to extract from the mines all of the coal that they contain. They find it very difficult to maintain those conditions of safety which ought to be maintained, because of the intense competition. We have heard a great deal about the loss of coal in mining.

It has been placed as high as 50 per cent, and I do not know as that is too high. There are mines where the recovery is as high as 90 per cent. Some mines where the recovery is as low as 30 per cent, but as the gentleman from Pennsylvania [Mr. BOWMAN] stated a moment ago, the recovery will be the last possible ton that can be taken from the mine and sold at a profit; the last possible ton that can be sold even at the cost of mining, because when the coal operator has built his works, has made the large investment necessary in the way of shafts or tunnels and entries, has put up his machinery for screening and loading the coal, he has so large an investment that it becomes absolutely essential that he should have as large a tonnage as possible over which to distribute that overhead cost. Therefore the limit of recovery is fixed by market conditions. Not a ton will ever remain in a mine which can be taken out and sold at any sort of a profit, and in conducting an ordinary operation some coal will be taken out that cost more than the average price received at the pit mouth.

Mr. CARTER. That is always true of slack.

Mr. MONDELL. It is true also of coal encountered in the lines of entries where the coal is taken out, or should be taken out, to secure as large a recovery as possible.

Now, there are peculiar conditions in Oklahoma. The gentleman from Illinois was surprised, and so was I, at the very high figure stated by the gentleman from Oklahoma [Mr. CARTER] as the cost of mining coal in Oklahoma. I do not feel so bad about it as I might, because if I am mistaken with the gentleman from Illinois I am mistaken in very good company in any event. I find that while the average price of bituminous coal in 1910 at the pit mouth in the entire United States was \$1.12, the average price in Oklahoma was \$2.22.

Now, it follows that either it costs more to mine coal in Oklahoma than it does elsewhere, or else the coal operators in Oklahoma are obtaining a very much larger profit than elsewhere. The latter fact may be true, but the probability is that the truth is somewhere between the two statements. While the Oklahoma operators may be obtaining a larger profit than the average coal operator in the United States, the probability is that the cost of mining the coal there is considerably higher than it is generally in the United States.

But I want to make this suggestion, that it is rather unfortunate in these days when there is considerable demand in certain quarters that, so far as the remaining public coal lands are concerned, the Government shall go into the leasing business, that the only place in the United States where coal lands are now leased by the Government is in the region where the operator receives the highest price. In other words, where the Government leases coal lands in Oklahoma the operator receives more than twice the price which the average operator receives throughout the country.

Mr. BOWMAN. Will the gentleman yield?

Mr. MONDELL. Certainly.

Mr. BOWMAN. On the question of the cost of mining in Oklahoma, from the statement of the gentleman from Oklahoma [Mr. CARTER], the cost will doubtless exceed \$1.75 and probably \$2. On veins pitched as he describes there will be a large amount of slack; and my opinion is that it would exceed 50 per cent. He says 60 per cent; and the price would be very low for that class of coal. You will find that coal will cost \$2 a ton or upward.

Mr. CARTER. Will the gentleman yield?

Mr. MONDELL. Certainly.

Mr. CARTER. It is also true that some of these veins worked in Oklahoma are less than 3 feet thick, even less than 2 feet, and everyone familiar with coal mining knows that when you work a thin vein of coal you have to pay an extra price to the miner for taking out the coal.

Mr. MONDELL. We all understand that. There is no place in the United States where bituminous coal sells for so high a price as in Oklahoma, except in the State of Washington. The average selling price in Washington for 1910 was \$2.50, while in Oklahoma it was \$2.32.

Mr. CARTER. What year was that?

Mr. MONDELL. That was in 1910. That is compared with an average price in the United States of \$1.12. The mining of coal in Washington is an expensive operation, owing to the dip of the veins and the presence in the veins of a great deal of waste material that must be picked out, most of it, by hand.

Mr. CARTER. Is that the price to the consumer or the price which the coal operator receives?

Mr. MONDELL. That is supposed to be the price for it at the mine, the coal as sold at the pit mouth by the operator; that is, the price he receives. In this price is included all the cost of operation and all of his profit, if any. Now, to come to this question of real conservation, there is one matter in connection with this legislation on which we should have complete information and on which we have no information at all.

Mr. BUTLER. Will the gentleman yield?

Mr. MONDELL. Certainly.

Mr. BUTLER. Where is this lease? Is there a copy of it?

Mr. MONDELL. I suppose there is a copy of its somewhere.

Mr. BUTLER. Has the gentleman ever read it?

Mr. MONDELL. I never have and do not care to read it, because I would not have any more information in regard to the matter in issue than I have now if I should read it. If the gentleman will allow me, I will explain why the lease would not cast any light on the one important matter.

Mr. BUTLER. If there is a minimum tonnage described in the lease, I think it would give us a good deal of information.

Mr. MONDELL. The Government is leasing coal in Oklahoma. I suppose owing to the conditions there existing it is necessary for the Government to lease the coal. The Government leases it on behalf of the Indians. Now, what light does this leasing operation throw on the general proposition, now more or less discussed, of the general leasing of the public coal lands?

The argument is made that we ought to lease the remaining public coal lands, in order that the people may get coal cheaply. As I said a moment ago, about the cheapest product in the world to-day is coal at the pit mouth. If there is anyone anywhere who has any legitimate complaint of the price of coal, that complaint is entirely due to an increase in the price of coal after it leaves the pit mouth. Men who know the most about mining coal regret that it is necessary, by reason of intense competition, to sell coal as cheaply as it is now sold generally at the pit mouth. The low prices tend to tempt operators to forego the necessary precautions for the safety of the miners. Coal is always too low if the low price is at the cost of human life and limb.

Mr. STEPHENS of Texas. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. Certainly.

Mr. STEPHENS of Texas. I desire to ask if it is not a fact that an immense amount of oil and gas has been discovered in that country, and that that has reduced the price of coal very greatly; and, on the other hand, they have to pay a very high price for mining the coal and placing it on the market; and, therefore, these people can make very little on the royalty.

Mr. MONDELL. Mr. Chairman, I will come to the royalty in a moment. The gentleman is getting me away from my line of thought, and if he will kindly allow me to pursue this line of thought a moment, I will come later to the question of royalty. I am not complaining about this royalty. I do not know but what the royalty is too high, and I am inclined to think it is. It is too high if it is above a fair return to the owners of the land and increases the price to the consumer.

Mr. JACKSON. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. Certainly.

Mr. JACKSON. I understand it is true that the State of Oklahoma practically controls and fixes the price of this product at the pit mouth under her local laws.

Mr. MONDELL. If she does, she makes the same kind of a job of it that any administrative bureau will make in attempting to fix the price of commodities. If Oklahoma has fixed the price, she has fixed the price higher than that anywhere else in the United States. In other words, if Oklahoma has advanced to the point where she is fixing the price of commodities, then she has fixed the price of this commodity at just about twice what it is where the ordinary laws of supply and demand under competition are left to operate.

One demand for the leasing of public coal lands is based upon the theory that we must reduce the amount of waste, that we must increase the amount of recovery. They say it is wasteful to allow private individuals and corporations to mine the coal, because they will only take from the mines the coal they can remove at a profit. That is true. That is, they will not remove enough coal above the average cost but what they will have a profit in the aggregate at the end of the season, and the only way you can cure that is by some process to compel the consumer of coal to pay a higher price in order that coal which can not be profitably mined under competitive conditions may be mined.

If we are following that line of conservation in Oklahoma, I think we should compel our lessees in Oklahoma to mine all of the coal within the boundaries of their leases. If we allow them to mine only such coal as they see fit to mine, they will not recover as large a proportion of the coal as they would if they owned the land, because in that case they would take the last ton out that was possible to recover. Being lessees, they are interested only to the extent of getting such coal as they can make a profit on.

The Interior Department has charge of these leases. The Interior Department wants to have charge of leasing the public coal lands in the Western States, and whether or not they should have that added burden placed upon them is, perhaps, more or less illuminated by what they have done in regard to the leases of which they have heretofore had charge. Of course, everybody knows that every coal-mining operation keeps a map of its operation, and any coal-mining operation worthy of the name can show you any day exactly the amount of their territory worked out or partially worked out by their map. I suppose that if the Interior Department is going into the business of superintending the leasing of coal lands, it would be necessary for them to keep duplicates of the maps or operations of the lessees. They certainly ought to do that in these cases where the Government acts as the guardian of the Indians, and therefore the Interior Department ought to have been able to supply us with the information that we ought to have on a bill of this kind. But what are the facts? We have no facts.

Personally, I am willing to take the word of the gentleman from Oklahoma [Mr. CARTER] in regard to it. I have very great confidence in him, and I have very great confidence in the committee, but nevertheless the House is entitled, if we are going into this sort of thing, to know what the situation is. That is one thing that we, as true conservationists, should insist upon. [Laughter.]

Mr. MADDEN. Mr. Chairman, I am glad the gentleman is on the right side at last.

Mr. MONDELL. Oh, I like to get on the right side occasionally. I notice that my genial friend from Illinois came over on the Lord's side this morning for five minutes. [Laughter.]

Mr. MADDEN. And I notice the gentleman from Wyoming is trying to get into the fold for five minutes also, and I am glad to see that he is, because he is generally upon the wrong side.

Mr. MONDELL. That depends altogether on the angle from which you view the matter. I am viewing this from the angle of the true conservationists, and I insist that the Government as the ward of the Indians shall not allow them to be despoiled, and I further insist that the Interior Department, advocating, as it is, the general leasing of coal lands, shall show to us that they are competent to handle that sort of thing, at least in the limited way in which they are endeavoring to handle it in Oklahoma.

Mr. JACKSON. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. I can not yield now.

Mr. JACKSON. Mr. Chairman, the gentleman has referred to the Government as the ward of the Indians.

Mr. MONDELL. Oh, I mean that the Indian is the ward of the Government. I thank the gentleman for correcting me. When I get to talking true conservation I am liable to get things turned around.

Mr. BURKE of South Dakota. And now that the gentleman has come to be a conservationist, I would like to know whether that accounts for his being on the Democratic side of the aisle?

Mr. MONDELL. It is altogether possible that is true. I had not noticed that I am at present speaking from the Democratic side of the center aisle.

Mr. BUTLER. Mr. Chairman, the gentleman seems to be very good natured just at present, and I would like to ask him some questions.

Mr. MONDELL. If the gentleman will allow me just a moment, I will be glad to yield.

Mr. BUTLER. The time belongs to the gentleman, and I shall wait until it suits his pleasure. I want to ask him a question.

Mr. MONDELL. I will yield now.

Mr. BUTLER. This is a hard bargain for the railroad company, is it not?

Mr. MONDELL. I do not know.

Mr. BUTLER. If the railroad company asks to have one piece of land substituted for another piece of land that has not paid, it is a hard bargain for the railroad company.

Mr. MONDELL. If the gentleman waits until I get through he may discover that I am not objecting to this legislation generally. [Laughter.] I am pointing out the fact that I am pro-

posing to accept the legislation upon the statement of the gentleman from Oklahoma [Mr. CARTER] and owing to my confidence in the Indian Committee, and not because they have given me any information in regard to the matter.

I do not think the gentleman should require us to always legislate in that way. I think that when the matter before the House is one on which there should be thorough information, it is the duty of the department in charge of the matter to furnish it to the committee and the committee to secure it. Of course, the Indian Committee could not secure information which the department does not possess.

Mr. BURKE of South Dakota. Does the gentleman think the Committee on Indian Affairs could give the gentleman information?

Mr. MONDELL. Well, on many questions, but evidently not on this particular matter. Now, if we are to be true conservationists, in the interest of conservation both from the national standpoint and from the individual standpoint there should be complete recovery of the coal in this mine. We should not allow these people who are mining this coal to pass by and pass over any coal at all. They should be compelled to take it all out in the interest of conservation, else why all this hullabaloo for the last 10 years in favor of a more complete recovery of coal? Here is a chance; the Government has absolute control of this situation and they can compel these people to take that coal out whether it pays to take it out or not; and in the interest of future generations no ton of coal ought to be allowed to remain in that mine after the mine had been abandoned that could have been recovered, and yet—probably this is not true and yet I do not know but what it is true—this company, having encountered some lands in the extension of its entries where the vein is thin or in which the pitch is more than common or other conditions exist which makes mining very expensive, it desires to pass by these areas and take other areas, where the vein is thicker or the angle of inclination is more favorable to mining or the character of the coal is a little better. Now, the Interior Department ought to know all about that. We ought to have a map of this mine; we ought to know whether these areas which we propose to abandon are beyond the limit of the vein.

Mr. CARTER. That is stated in the report.

Mr. MONDELL. No; on the contrary, and I will read it in a minute—whether they are beyond the limit of the coal-bearing area where it is utterly impossible to recover coal. Probably there is some coal in this land. Nobody claims there is none at all, I think.

Mr. CARTER. The Secretary says the land is noncoal bearing, in his report.

Mr. MONDELL. He says it is shown, but he does not say how it is shown or where it is shown or the manner of the showing, except the showing made by the committee itself in the form of a statement that the lands are not satisfactory coal lands.

Mr. McGUIRE of Oklahoma. If the gentleman will allow me, this has all been investigated. We appropriated \$50,000. They went out and drilled and sunk shafts and they determined definitely that there was no coal, and when the company found there was not any coal on these lands the Interior Department finds that there was no coal on these lands. Everything that could be done—all the investigations have been made that can be made, and it seems to me that ought to be satisfactory to the gentleman.

Mr. MONDELL. Now, I will say to the gentleman if this is true, then somebody somewhere ought to have put it into a report and stated it officially.

Mr. McGUIRE of Oklahoma. I have just reported it to the gentleman.

Mr. MONDELL. Somebody somewhere ought to have given that information so we could understand it. I am willing to take the word of the gentleman—

Mr. McGUIRE of Oklahoma. I have got it here and I have given the statement to the gentleman.

Mr. MONDELL. But I am still very doubtful with regard to this proposition, whether these lands lay wholly without the coal-bearing area or are they coal-bearing lands where the seam is thin and recovery is expensive, and, if they are, what becomes of our theory of conservation and absolute and complete recovery?

Mr. CARTER. Will the gentleman yield?

Mr. MONDELL. I can not yield at this moment—

Mr. CARTER. I just want to correct the statement the gentleman made.

Mr. MONDELL. In just a moment, if my statement needs correction. There is not any reason on earth why these lands should be excluded from their lease unless they want to be re-

lieved from the necessity of mining such coal as is in the land. If there was no coal in this land they would not be compelled to mine coal that was not there, but having had the lands excluded from the lease they are absolved from the requirement of taking from the land such coal as the land may contain. If it be true that these lands are in the lines of their entries and in the midst of their field or on the edge of the field so that it can not be reached from any other point, then whatever coal remains in the lands excluded from this lease never will be recovered and will be lost for all time to come. I now yield to the gentleman from Oklahoma.

Mr. CARTER. I just want to state this: The gentleman made a statement, if I understood him correctly, that the Secretary made his report without any information. Let me state that this matter was submitted to the mining trustees—two Indians, one a Choctaw and the other a Chickasaw—whose sole duty it is to represent these two tribes—the Choctaws and Chickasaws. These two trustees went upon the ground and made an official examination of all the conditions. After this careful investigation these two officials—both Indians themselves, mind you, and having no duty to perform except on behalf of the Indians—reported this land sought to be released as noncoal bearing and recommended this legislation. So, Mr. Chairman, it does not seem that the assertion of the Secretary of the Interior being uninformed has very much foundation.

Mr. MONDELL. It is very curious, because from the hurried plat I have made of the land, necessarily somewhat incorrect, it seems some of the lands proposed to be abandoned lie in the body of the lease, and therefore, instead of being absolutely noncoal bearing by reason of being beyond the coal-bearing area, there are possibly some of the lands which contain coal which can not be worked, owing to the price for which coal is sold in Oklahoma.

Mr. CARTER. Mr. Chairman, the gentleman ought to know that it is perfectly possible for the very center, I should say, of a coal area to have noncoal-bearing strata. If that were not true coal mining would be impossible, for there would be no crop. The coal can not crop unless there is an anticline or some sort of break through the solid layer of coal. So far as I know there is no law of nature that regulates the extent of this break, and it is just as likely to be small as large; therefore it is not only possible, but certain that noncoal-bearing land of even small dimensions may exist right in the middle of a large coal-bearing area.

Mr. MONDELL. Part of the gentleman's statement is true and part of it is not entirely accurate. There are regions within most coal areas where there is no coal at all. Those little patches here and there to which the gentleman refers are generally places where the vein is thinned or broken or displaced.

Mr. CARTER. The gentleman is entirely mistaken about that. He will find a great many places right in the midst of these coal lands that are completely devoid of coal for an area of from forty to several hundred acres.

Mr. MONDELL. However that may be, I want to say in regard to the other statement of the gentleman that of course a coal area does not have to be broken in order to be exposed. Wherever there has been a disturbance of the surface sufficiently deep to bring the coal strata to the surface there is an outcropping, and the vein may extend miles unbroken from the cropping, as it sometimes does, or it may outcrop again a mile away or extend only a short distance from the cropping.

But, Mr. Chairman, what the gentleman says emphasizes this fact, that the Interior Department does not seem to have information in regard to these leases which are placed under its supervision. It does not seem to be able to give us full information in regard to these lands, and we have to take the word of the gentleman from Oklahoma, which I am perfectly willing to take, so far as I am concerned, as to the facts in the case.

Now, there is one other matter connected with this legislation—

Mr. OLMSTED. Before the gentleman passes to that, will he yield to me for a question?

Mr. MONDELL. Gladly.

Mr. OLMSTED. The bill itself speaks of these lands as not being valuable for coal. The gentleman concedes that there may be some coal there, but it can not be profitably worked at the present time, and the gentleman from Oklahoma [Mr. CARTER] says there is no coal there at all, according to his information. Now, if the gentleman from Wyoming [Mr. MONDELL] has stated the case correctly, if you mine all the coal there is within the limits of a mine, although it may be full of slate, and so forth, you will find that the mining of inferior veins and thinner coal is more expensive and increases the cost of mining. Now, the gentleman says there are 480 acres where there is coal, but that it can not be profitably worked. Would

it not be better to allow these lessees to transfer their operations to mines that can be profitably worked for the time being? In the meantime the other coal lands will not be wasted. Later on they can mine the other coal when it can be profitably worked.

Mr. MONDELL. As I am speaking now as a true conservationist, I am not in favor of surrendering the entire platform of conservation, although the gentleman from Pennsylvania may be.

Mr. BUTLER. It is not a question of conservation, but a question of bargain keeping.

Mr. OLMSTED. This bill does not seem to cover the entire platform of conservation. What I am treating of is this 480-acre tract. It seems it would be better to conserve this land entirely until such time as it can be profitably mined. It would conserve this coal in the ground.

Mr. CARTER. The gentleman from Pennsylvania [Mr. BUTLER] has stated that this is a question of bargain keeping. The gentleman, if he understood the situation, would see that such is not the case at all. The representatives of the Indians favor this legislation and have so reported. The gentleman from Wyoming [Mr. MONDELL] is under the delusion that there is an invisible power somewhere to compel these companies to work this coal against their will. They can not be compelled to work it at a loss.

Mr. MONDELL. Then what is to become of the theory of conservation? [Laughter.]

Mr. CARTER. I do not want to discuss the theory of conservation with such a thoroughbred conservationist as the gentleman from Wyoming. [Laughter.]

Mr. BUTLER. Has the gentleman from Oklahoma read the lease?

Mr. CARTER. Yes; I have read it. I helped to make it as a representative of the Indians.

Mr. BUTLER. Then the gentleman ought to know what is in it. Did you not require this company to take out so much coal in the first year?

Mr. CARTER. Yes; so much coal in the first year, so much in the second year, so much the third year, so much the fourth year, and so much the fifth year, and after that there is no further restriction, as I remember. It is presumed, of course, that no such stipulation would be necessary after the work progressed to the point where the coal could be mined profitably.

Mr. BUTLER. And therefore the provision for the minimum tonnage ran for five years only?

Mr. CARTER. That is according to the regulations.

Mr. BUTLER. I do not think that is fair to the Indian—to limit it to five years.

Mr. MONDELL. But the gentleman from Pennsylvania would surrender the entire platform of conservation—

Mr. OLMSTED. No; I want to conserve these 480 acres until the people out there need it.

Mr. MONDELL. Oh, but the gentleman should know that once a shaft is sunk and the entries are driven and the coal is mined, whatever may be mined, and then the machinery pulled out and the mine allowed to flood, under ordinary circumstances there can never be any further recovery of coal within those areas. There may be conditions under which a mine could be pumped out and opened up again, and the gas driven out, and the entries retimbered, but they are rare, and it would only occur when the coal is very valuable. A mine once abandoned is practically abandoned forever, except under extraordinary conditions and circumstances. Therefore you are not following a proper rule of conservation if you allow these people to abandon the areas which they are working if they still contain some coal. If that is not what they want to do, I do not see any reason why they should be relieved. If they need more land, give them more. So far as I am concerned, I would be very willing to give them a thousand acres more if they need it.

Mr. CARTER. Right there, Mr. Chairman, let me assure my friend of my willingness to accept an amendment of that kind if the gentleman from Texas [Mr. STEPHENS] will.

Mr. MONDELL. To abandon land that may contain some coal is to abandon the entire principle of conservation and go back to the system, which has been so vociferously condemned, of leaving in a mine coal that you can not take out at a price that people will pay for it.

Mr. MADDEN. Would the gentleman be willing to say that these men ought to be compelled to mine the coal if the vein is not big enough to warrant the mining of it?

Mr. MONDELL. Ordinarily I would not insist that they should take out coal which costs more than they can get for it, but in the moments like the present, in which I am a pure conservationist, I shall not surrender the platform of the cult,

not for a moment. If you are not going to compel a man to take the coal out, whether it pays him to take it out or not, what becomes of those holy principles for which we have so long fought, and bled, and all but died? [Laughter.]

Mr. STEPHENS of Texas. Will the gentleman yield?

Mr. MONDELL. Very briefly, because my time is limited, and I have a number of matters I want to discuss.

Mr. STEPHENS of Texas. Is the gentleman aware that the recent act of Congress, passed in February, of this year, segregates that land, and that we have agreed to sell the surface, and the coal is reserved for leasing?

Mr. MONDELL. I am not objecting to that. You will not find me objecting to that, even in the moments when I am a true conservationist.

Mr. McGUIRE of Oklahoma. I understood the gentleman to suggest, in the interest of conservation, that where they could not mine the coal profitably at the present time at the prices paid to miners it might be left discretionary to abandon it.

Mr. MONDELL. If the gentleman had listened to what I said, he would know that I have stated that an adherence to the principles of conservation compel us to insist that the coal must be mined, whether it pays or not.

Mr. McGUIRE of Oklahoma. I have listened, and I am coming to that now. I understood the gentleman from Wyoming to object to the proposition of the gentleman from Pennsylvania [Mr. OLMSTED]. Now, I want to know of the gentleman from Wyoming whether he is such an intense conservationist that he would require the miners and lessees of those mines to mine the coal at a loss, where it does not pay.

Mr. MONDELL. In the moments when I am an intense conservationist, I say yes; else I would surrender the platform on which we true conservationists all stand. Why should the Federal Government go into a business the product of which is now the cheapest on earth compared with its real value, unless it be for the purpose of compelling a larger recovery? Preventing waste in the interest of generations unborn is what we true conservationists call it. Of course we all know that larger recovery means that the present generation shall pay more for it; but why be alarmed, or why trouble ourselves about the present generation, when we are looking forward to the interests of a dim and distant posterity?

Mr. CARTER. A dim posterity? The gentleman speaks for himself alone on that point. [Laughter.]

Mr. MONDELL. I intended to say a posterity in the dim and distant future.

Mr. FERRIS. There is no conservation about that.

Mr. MONDELL. Having started on this proposition of true conservation, we must stick to our guns. We must stand by the principles of conservation, else we will not be justified at all in any of those things that we are doing.

Now, another thing, and in this I am serious. This coal company has a name very similar to the name of a railroad company out there—

Mr. DAVENPORT. It has different stockholders entirely.

Mr. CARTER. They have never had any connection.

Mr. MONDELL. I supposed it was a company connected with the railroad company.

Mr. CARTER. It is not a company connected with the railroad company. The incorporators are James McConnell and the estate of James Degnan and some minor stockholders. I am sure the Missouri, Kansas & Texas Railway Co. has no stock in the mine.

Mr. MONDELL. I am glad to know that, because if there is any one thing we should not do, whether conservationists or not, it is to allow a common carrier to be interested in the mining of coal. Whatever evils there are in connection with the coal business of this country are largely due to the fact that the mine owners are in many instances the operators of railways.

Mr. BUTLER. Since hearing my friend to-day I am almost persuaded that at times we have done him an injustice. [Laughter.]

Mr. MONDELL. The trouble we have had in the matter of coal prices has been largely due to the influence of coal companies closely connected with transportation companies. Such influence has been harmful, and so far as the future is concerned I think we are reasonably safe from further extensions of such connections. I wish it were possible and I hope it will be possible entirely to divorce these two lines of industry, so that the coal operator and the company that carries his product shall be entirely dissociated and have no direct interest one with the other. When that day comes, in my opinion, most of the complaints that we have with regard to the price of coal, except such as arise from the fact that the distributor sometimes gets a very considerable margin, will be done away

with, and the present extremely low price of coal at the pit mouth will be reflected, as it ought to be, in the price paid by the ultimate consumer.

Now, Mr. Chairman, in the very brief period of time that I have remaining I want to say that I have no objection to this bill, after having heard the explanations of the gentlemen from Oklahoma; but I think it is very unfortunate, indeed, that the department does not seem to be better informed with regard to these operations under its jurisdiction and of which it has charge. The department ought to have been able to inform the committee fully as to the character and condition of the lands proposed to be abandoned, and I for one would be perfectly willing, if there were lands where the vein was too thin, speaking now not as a conservationist, but as an ordinary citizen, that the department, if it felt it was proper to do so, should absolve them from mining coal which they could not mine and sell except at a loss. One way, however, to avoid that, when you reach territory that can not be profitably mined would be to reduce the royalty to a point where the operator could afford to take out the coal. I hope the legislation is altogether proper, as the gentlemen from Oklahoma and the members of the committee seem to think it is, and in that view of it I hope it will pass.

Mr. MANN. Mr. Chairman, it seems to me that the House ought to have an understanding of what this bill is. I am very much afraid that during the elucidation of his ideas on the general subject of conservation by the gentleman from Wyoming the House may have lost sight of the real proposition in the bill. There is not much information contained in the report on the bill; even the report of the committee or the report of the department. Both are very scant. The gentleman from Oklahoma [Mr. CARTER] has given us some information concerning the bill, and I have no doubt that he is in the main correct.

Here is a proposition to exempt from a lease certain land which is now under lease, on the ground that the land is not valuable for the purposes for which it was leased, and to insert in the place of that land other described land which is valuable for the purposes described in the lease. I suppose that no such proposition would be made to anybody else in the world except to the Congress of the United States. It has been our policy down to the present time not to lease these Indian lands for the coal privilege, on the ground that the coal royalty at present is not as high as it ought to be, owing to the competition of gas and oil which is very abundant in those regions. Yet, it is proposed here to give a special privilege to these two companies; one to obtain 360 acres additional coal land, and the other, I believe, 120 additional acres—a purely special privilege under existing leases. As to the terms of the lease no one has dared to produce a copy of it or the regulations of the department during the consideration of this bill, which is now up for the second time this week.

The department does not recommend the passage of the bill. The strongest argument which has been made in favor of the bill is that in the last Congress the bill passed both Houses, as they say, too late for the President to sign it. But it did not pass too late for the President to sign it; it passed in time for the President to sign it, but he did not sign it because there was doubt as to whether it ought to be signed.

A MEMBER. He vetoed it.

Mr. MANN. No; he did not veto it. It used to be called a pocket veto, but the bill reached the President late, and, as they say, the President did not have the time to determine about it. If the department had been in favor of the passage of the bill at the time it would not have taken more than two seconds to express that opinion and have the President sign it.

Now, we are brought up right short against the proposition: Does this House, as now constituted, propose to grant special privileges to special companies, by special legislation, authorizing the leasing or purchase of these coal lands at low rates? Only a year ago, when the Alaska proposition was before the House, the House expressed its disapproval of the bill which proposed to lease coal lands in Alaska at a rate not much less than the rate that is paid under this lease, this rate now being about 8 cents a ton.

I do not know whether it is the policy of a Democratic House to pass bills to authorize special corporations to have special privileges in the leasing of coal lands at special rates or not, but when there was a Republican House the bill was defeated.

True, it was defeated in part by Democratic votes, and the statement was then made on the floor of the House by an eminent gentleman of the Democratic persuasion that no coal lease ought to be made in Alaska with a royalty of less than 50 cents a ton. While I did not agree with him and do not agree with him now, and while it may be that the rate named here is

as high as it should be, I think that when we lease coal lands in Oklahoma or elsewhere it ought to be done after competitive bids, with a right to reject all bids, and not because some company has secured heretofore under a system, I suppose, of competitive bidding, a lease of certain coal lands it shall now have the special privilege granted to it of obtaining other coal lands of more value at the same rate.

Mr. STEPHENS of Texas. Mr. Chairman, I ask unanimous consent that all general debate on this bill close in 10 minutes.

The CHAIRMAN. The gentleman from Texas asks unanimous consent that all general debate close in 10 minutes. Is there objection?

There was no objection.

Mr. OLMSTED. Mr. Chairman, there is an old story floating around in the State in which I reside of a learned judge, at times a little irascible. In the course of a heated argument made by one of the older members of the bar, a colloquy ensued between him and the judge, who finally said, "You must be crazy." The lawyer retorted, "That may be, but the difference between your honor and myself is that occasionally I have a lucid interval." [Laughter.] The gentleman from Wyoming and myself are both intense conservationists, but I occasionally have lucid intervals, and this is one of them. [Laughter.] This bill does not seem to me to contemplate any very serious attack upon any conservation theory. It seems that this mining lease was heretofore granted to certain coal companies, covering certain land. It has developed that that land contains no coal at all, or coal of such character and quality or thinness of vein that it can not now be worked profitably, and the proposition in this bill is to transfer that lease to land that contains coal that can be worked.

As the gentleman from Wyoming has said, it is quite true that to mine coal that can not be profitably worked has a tendency to and does necessarily increase the cost of mining and makes all coal more expensive to the consumer. On this conservation question, and the question of recovery of all the coal that is in the mines, we have in Pennsylvania a very vivid and striking example. Anthracite coal, or, as it was first called, stone coal, was first mined in Pennsylvania in 1822.

At first it was used only in the large sizes. Then they began to find use for a little smaller size, and so on, from time to time, until now the very grains of coal are utilized. Anybody who will ride up the north branch of the Susquehanna River will see on either side of the train for about 50 miles vast mountains of the produce of coal mines, thrown out there, some of it, a half century ago, almost pure coal, but in such sizes that it was impossible to use it. It was composed of dust and small grains, that at that time could not be used. It was thrown out there and wasted. Some of these mountains of coal are on fire now and have been for years. From some of them they are beginning to wash and use the smaller particles of coal. They first used what is called steamboat coal, great blocks of coal, and then through breakers they broke it up, and finally used stove coal, and then a smaller size, known as egg coal, and then got down to a smaller size, called chestnut coal, and then, finally, pea coal and buckwheat coal, and now, by modern devices for getting air through it and preventing it from packing, they can use almost the dust that comes from the breaking up of the coal. Many gentlemen present pass through the city of Harrisburg, in which I live, on their way to and from their homes, but I doubt if any of them ever knew the fact that that city is heated and lighted by coal which is taken up by suction from the bed of the river in front of Harrisburg, it being the dust, small particles of coal, which are washed down in times of high flood by the streams from the mines 20 or 30 or 40 or 50 miles up the creek. In times of great flood the water washes down these banks of coal, which were thrown out as useless.

Now, they drain those pockets in the bottom of the river, where the coal settles and falls, and you will see almost every time you cross the river at Harrisburg, or ride along the river, these dredges, which are sucking the coal out of the water. The dredges draw up mixed coal and sand. The coal is sifted out and is burned in the steam-heating company's plant, and it makes the steam by which our houses are heated and the electric light by which the city is lighted. That shows the advance in the utilization of coal. In earlier days such coal could not be utilized at all.

Originally it did not pay. That product was not worth transporting from the mines to the market. To-day all sizes are used and all sizes are transported to tidewater. In the early days, if they had attempted to save all of that coal, it would have at least doubled to the consumers the price of the coal that was burned in the stoves. It could not have been done then, and I do not suppose that in Oklahoma these mines of

coal could be mined if they attempted to mine all that was in the mine, for it would double the price of the coal to the consumer necessarily. It does not seem to me that by leaving whatever coal there may be in these 480 acres to rest until such time as there is such demand for coal in Oklahoma as will justify its profitable operation we will in any way interfere with the plan of conservation or with the interests of the Government. It is useless to try to make people spend money that they can not get back in getting something out of the ground for which there is not now an adequate demand. There are great quantities of oil and other fuels in the West, which make a smaller demand for coal, and consequently they could not sell it at a price which would justify mining it from these 480 acres of land, where the quality is poor and the vein thin.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. OLMSTED. Certainly.

Mr. BUTLER. This coal company is not compelled to take the coal out of the land described in this bill, as I understand. That is, there is nothing in the lease to compel the coal company to dig this shallow vein of coal.

Mr. OLMSTED. No; but the gentleman from Wyoming argued that they ought to be compelled to do it.

Mr. BUTLER. But, as I understand from the gentleman from Oklahoma [Mr. CARTER], there is nothing in the lease to compel this company to dig this coal after a period of five years.

Mr. OLMSTED. Very well; assume that.

Mr. BUTLER. Assuming that to be true, why should there be any legislation at all? Why should Congress be requested to relieve the company from doing something which it is not compelled to do?

Mr. OLMSTED. But there is something they want to do and something that the people out there want them to do and something that it is to the interest of the Government to have them do, and that is to mine some coal and pay a royalty for it and let the people have the coal.

Mr. BUTLER. But the gentleman understands that we are asked to so legislate that we will transfer a piece of coal land which has good coal in it, without consideration, for a piece of land that has not any.

Mr. OLMSTED. Oh, no. We are not giving them coal. They have to pay a royalty for every ton of coal that they take out.

Mr. BUTLER. If that be true, why should the exchange be made at all? Why not ask Congress to simply extend the territory?

Mr. OLMSTED. The gentleman from Oklahoma will accept such an amendment to the bill, as I understand.

Mr. CARTER. We are perfectly willing to accept that amendment if the gentleman insists upon it. It could not possibly be detrimental to anyone except, perhaps slightly, to the Indians, for it would simply tie up 480 acres of mountain land which otherwise might be sold and the proceeds divided.

Mr. BUTLER. Expressing my confidence in the gentleman from Oklahoma, I believe he can take care of the Indian much better than the Indian can take care of himself; but it seems to me strange that we should be asked to transfer a piece of ground back to the Indian and then give a piece of Indian ground to the company, the company not being compelled to dig the coal in the former place. Why the trade?

Mr. CARTER. I do not want to take up the time of the gentleman from Pennsylvania—

Mr. OLMSTED. Mr. Chairman, I yield to the gentleman.

Mr. CARTER. The proposition is not complicated. We simply ask for 480 acres of coal-bearing lands for two coal companies, and for the release of 480 acres noncoal-bearing lands. It is asked for by both coal operators and Indians, and will be beneficial to both, besides developing the country. Now, if the gentleman insists upon the companies keeping this barren land, there would certainly be no objection on the part of the companies, because you could not compel them to take a ton of coal out of the mine at a loss. As a matter of fact, there is no coal in the land anyway.

The CHAIRMAN. The time for general debate has expired.

Mr. STEPHENS of Texas. Mr. Chairman, I ask for the reading of the bill under the five-minute rule.

The CHAIRMAN. The Clerk will read the bill.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he hereby is, authorized and directed to permit the Missouri, Kansas & Texas Coal Co. to relinquish certain lands embraced in its existing Choctaw and Chickasaw coal lease which have been demonstrated to be not valuable for coal, as follows: Southwest quarter of the northwest quarter, south half of the southeast quarter of the northwest quarter, northwest quarter of the southwest quarter, east half of the southwest quarter, west half of the southeast quarter, south half of the southeast quarter of the southeast quarter, section 35, township 6 north, range 18 east; north half of the northeast quarter of section 2, township 5 north, range 18 east; embracing 360 acres, more or less; and to include within the lease in lieu thereof the following-described land, which is within

the segregated coal area and unleased: Northeast quarter of section 36; east half of the northwest quarter of section 36, township 6 north, range 18 east; southeast quarter of southwest quarter and south half of southeast quarter of section 25, township 6 north, range 18 east; embracing 360 acres, more or less.

Mr. BUTLER. Mr. Chairman, I move to strike out the last word, for the purpose of asking a question of the gentleman from Oklahoma. If this bill is passed, the same agreement will be made for this piece of land that now exists for the one that will be turned back to the Indians.

Mr. CARTER. Yes.

Mr. BUTLER. Therefore this company will only be required to dig a certain amount of coal for five years.

Mr. CARTER. The time in which the company was required to take out a certain amount of coal has passed. It expired during the first five years of the lease.

Mr. BUTLER. I would suggest to the gentleman, who is interested in these people, would it not be well to extend that limit? I know something, to my disadvantage, of a long lease of coal lands requiring a minimum tonnage. It puts the lessee on his energy and requires him to dig and hunt for coal on his lease. Why not make this limit 50 years and during the life of the lease the lessee shall be required to take out so much coal every year as a minimum tonnage?

Mr. CARTER. The present lease will expire within about 20 years, I should say, and beyond all question the coal sought to be taken by this bill will be completely exhausted before the lease expires. The coal which we ask for will be worked through tipples and openings already in use and which have been constructed for 8 or 10 years. The bill has been carefully considered in committee and I feel sure any further restriction is superfluous and unnecessary.

Mr. MANN. Mr. Chairman, I understood the gentleman from Oklahoma awhile ago to state that the Assistant Secretary or the assistant commissioner advised him that he was preparing a bill providing for the disposition of these Indian coal lands.

Mr. CARTER. As I remember, I said that I had a talk this morning with the Assistant Commissioner of Indian Affairs and he told me he would confer with the commissioner for the framing of a bill to take care of just such cases as this without bringing it in the Congress.

Mr. MANN. That was not what I understood the gentleman to say, although I understood him to say that much. I understood him to say that they were preparing a bill providing for the disposition of these coal lands, I mean all lands that are reserved.

Mr. CARTER. The gentleman either misunderstood me or I unintentionally misstated the case.

Mr. MANN. May I ask the gentleman what is his position on this question?

Mr. CARTER. On the lease or sale of the minerals?

Mr. MANN. On the lands that are now reserved?

Mr. CARTER. Does the gentleman speak in regard to sale or lease?

Mr. MANN. Well, either one.

Mr. CARTER. Well, I would favor a bill for the lease of the unleased mineral deposits in those lands under conditions that would be fair and equitable to the Indians. While I was for years in the past an advocate of the sale of this mineral to anyone who would buy and would be glad to see the Government purchase same now, I do not believe it would be fair to the Indians who own the property to offer it at forced sale right now on account of the bad condition of the market. The marvelous development of the Oklahoma gas and oil fields has practically put the coal operator out of business, and the Indian would not begin to realize anything near the value of his property. That is the only objection I have to selling.

Mr. MANN. I asked the question because it appears that a former Secretary of the Interior, Mr. Ballinger, reporting upon this bill, or a similar bill, stated:

It is not believed that any unleased lands should now be substituted for lands within existing leases if it be decided to make a speedy sale of the coal deposits with a view of expediting the final winding up of Choctaw and Chickasaw tribal affairs, etc.

And the present Secretary, or the Assistant Secretary, reporting upon this bill, has also stated:

If it be the purpose of Congress to authorize the immediate sale of the coal deposits of the Choctaw and Chickasaw Nations, the propriety of permitting exchanges of this character might be doubted.

Of course, whether they are sold or leased does not make any difference as far as they are concerned.

Mr. CARTER. Of course I am not authorized to state the position of either Mr. Ballinger or Mr. Fisher—

Mr. MANN. They state their position very clearly here.

Mr. CARTER. Not on the subject I have in mind; but I have talked to both of them about this matter quite extensively. Mr. Ballinger's idea was that the coal mines should be sold to

the highest bidder with proper precautions to prevent monopoly. Mr. Fisher's position, as I have understood it, is against the sale of this mineral at this time.

Mr. MANN. Well, this goes to the matter of whether these coal deposits are to be disposed of at an early date in some way or to be retained in the hope of getting a higher price or because there is not demand enough there now to warrant the opening of more mines.

Mr. CARTER. Will the gentleman read again what Mr. Fisher said?

Mr. MANN. Mr. Adams, First Assistant Secretary, stated:

If it be the purpose of Congress to authorize the immediate sale of the coal deposits of the Choctaw and Chickasaw Nations, the propriety of permitting exchanges of this character might be doubted. If, however, the sale of the coal deposits is to be deferred to some future time, it would seem entirely just and equitable to the lessees and profitable to the Indians to permit relinquishment of lands which have been proven not to bear coal and the selection of other segregated coal lands in lieu thereof. The lessees have necessarily expended considerable money in developing the mines, and should be allowed to reap some benefit from this expenditure by mining coal which may be reached from the developments thus made. The Indians would by such an arrangement receive an income from the coal mined.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. CARTER. Mr. Chairman, I move to strike out the last two words. It does not seem that Assistant Secretary Adams makes any statement definitely as to what his position is, except under certain conditions. He simply states two contingencies and what should be done in either case. If the minerals are to be sold immediately, then, says the Assistant Secretary, "this legislation might be inopportune." I believe we might all agree on one thing, and that is the improbability of such sale in the immediate future, so that disposes of that contingency and leaves us to deal with this matter in the light of the other alternative, to wit, without prospect of immediate sale, and in that case the Assistant Secretary says he favors the bill.

Mr. TILSON. Mr. Chairman—

Mr. CARTER. I yield to the gentleman from Connecticut.

Mr. TILSON. I notice in the first section of the bill the names of the two coal companies—first, the Missouri, Kansas & Texas Coal Co. Is that company in anywise connected with the Missouri, Kansas & Texas Railroad?

Mr. CARTER. Not in the least. The stock of the Missouri, Kansas & Texas Coal Co. is owned by James McConnell and the estate of James Degnan and some other minor stockholders; but the stockholders of the Missouri, Kansas & Texas Railway Co. have no interest in this coal company. As a matter of fact, the Missouri, Kansas & Texas Railroad did not reach this section of the country until some time after this lease was made.

Mr. TILSON. I noticed the similarity of the names.

Mr. CARTER. Yes. I think it is an unfortunate name they have taken when it comes to the consideration of this bill.

Mr. TILSON. I am not prejudiced at all, I will state to the gentleman.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 2. That the Secretary of the Interior be, and he hereby is, authorized and directed to permit the Eastern Coal & Mining Co. to relinquish certain lands embraced in its existing Choctaw and Chickasaw coal lease which have been demonstrated to be not valuable for coal, as follows: South half of the northwest quarter of the northwest quarter, southwest quarter of the northwest quarter, south half of the southeast quarter of the southeast quarter, northeast quarter of the southwest quarter of section 1, township 5 north, range 18 east, embracing 120 acres, more or less; and to include within the lease in lieu thereof the following-described land, which is within the segregated coal area and unleased: Southwest quarter of the southwest quarter of section 30, township 6 north, range 19 east; west half of the northwest quarter of section 31, township 6 north, range 19 east; embracing 120 acres, more or less.

Mr. STEPHENS of Texas. Mr. Chairman, I move that the committee rise and report the bill favorably to the House.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. RUCKER of Colorado, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration Senate bill 3686, authorizing the Secretary of the Interior to permit the Missouri, Kansas & Texas Coal Co. and the Eastern Coal & Mining Co. to exchange certain lands embraced within their existing coal leases in the Choctaw and Chickasaw Nation for other lands within said nation, and had authorized him to report the same to the House and recommend its passage.

The SPEAKER. The Chairman of the Committee of the Whole House on the state of the Union reports that that committee has had under consideration Senate bill 3686, and reports it back with the recommendation that it do pass.

Mr. STEPHENS of Texas. Mr. Speaker, I ask unanimous consent to correct a clerical error here. It should be "Nations" instead of "Nation," in the singular.

Mr. MANN. That should be an amendment to the title.

The SPEAKER. That comes afterwards. The question is on the third reading of the Senate bill.

The bill was ordered to be read a third time, was read the third time, and passed.

Mr. STEPHENS of Texas. Mr. Speaker, I ask unanimous consent to correct the last word of the title by making it read "Nations" instead of "Nation."

Mr. MANN. The word "Nation" occurs twice.

Mr. STEPHENS of Texas. Just add the letter "s" to the word "Nation" where it occurs.

The SPEAKER. Where does it occur?

Mr. STEPHENS of Texas. In the last line of the title.

The title of the bill was amended so as to read: "An act authorizing the Secretary of the Interior to permit the Missouri, Kansas & Texas Coal Co. and the Eastern Coal & Mining Co. to exchange certain lands embraced within their existing coal leases in the Choctaw and Chickasaw Nations for other lands within said nations."

On motion of Mr. STEPHENS of Texas, a motion to reconsider the vote whereby the bill was passed was laid on the table.

TOWN SITES OF TIMBER LAKE AND DUPREE, S. DAK.

The SPEAKER. The Clerk will report the next bill.

Mr. STEPHENS of Texas. Mr. Speaker, I desire to call up from the Union Calendar No. 138, the House bill 45.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

A bill (H. R. 45) affecting the town sites of Timber Lake and Dupree in South Dakota.

Mr. STEPHENS of Texas. Mr. Speaker, I ask unanimous consent to dispense with the first reading of the bill.

The SPEAKER. The House automatically resolves itself into the Committee of the Whole House on the state of the Union, with the gentleman from Indiana [Mr. MORRISON] in the chair.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 45, with Mr. MORRISON in the chair.

On assuming the chair Mr. MORRISON was greeted with applause.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 45, which the Clerk will report.

The Clerk read as follows:

A bill (H. R. 45) affecting the town sites of Timber Lake and Dupree, S. Dak.

Mr. BURKE of South Dakota. Mr. Chairman, I ask unanimous consent to dispense with the first reading of the bill.

Mr. FOSTER. I think we ought to have the reading of it. It is only a short bill.

The CHAIRMAN. The Clerk will report the bill.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to cause to be set apart and reserved for school, park, and other public purposes not more than 5 acres of the lands not heretofore disposed of, within each of the town sites of Timber Lake and Dupree, in that portion of the Cheyenne River and Standing Rock Indian Reservations in the States of South Dakota and North Dakota, authorized to be disposed of under the act of May 29, 1908. Patents shall be issued for the lands so set apart and reserved for school, park, or other public purposes to the said municipalities of Timber Lake and Dupree: *Provided*, That the purchase price of all town lots hereafter sold under the supervision of the Secretary of the Interior in the said town sites of Timber Lake and Dupree shall be paid at such times and in such installments and upon such terms as he may direct, and he shall cause 20 per cent of the net proceeds arising from such sales to be set apart and expended under his direction in the construction of schoolhouses or other public buildings or improvements in the respective town sites in which lots are sold.

Mr. STEPHENS of Texas. Mr. Chairman, I will yield to the gentleman from South Dakota [Mr. BURKE]. The bill pertains to his district.

Mr. BURKE of South Dakota. Mr. Chairman, in explanation of this bill I will say that in 1889 the Sioux Indians in South Dakota had in their reservation something like 20,000,000 acres of land. An agreement or treaty was made with them by which they ceded to the Government about 9,000,000 acres of that reservation, and the rest of the land was divided into six separate reservations. The Indians were to receive for the ceded land \$1.25 an acre for all that was taken in the first three years under the homestead laws, 75 cents an acre for all taken in the next two years, and for the land disposed of thereafter 50 cents an acre.

The law also provided that there should be allotted to the individual Indians of grazing lands—and I may say it was all classified as grazing land—640 acres to each head of a family,

320 acres to each Indian 18 years of age or over, unmarried, and 160 acres to each Indian child under 18 years of age. The law also provided that from the proceeds of the sale there should be placed in the Treasury as a trust fund for the Indians the sum of \$3,000,000. The proceeds other than the \$3,000,000 were to be used in the support, civilization, and education of the Indians.

The law further provided that after the allotments were made the balance of the surplus lands that would be left after allotments were made might be disposed of under terms to be agreed upon with the Indians.

But it expressly provided that the lands should be disposed of to settlers under the provisions of the homestead law, the theory being that the Indians having taken their allotments it would be well to get white settlers adjoining the Indian allotments, first, for the purpose of having the Indian in contact with the white man in farming, and, secondly, to make the Indian allotments more valuable.

The first agreement made for the sale of surplus lands in one of the diminished reservations was an agreement for the sale of a portion of the Rosebud Reservation in Gregory County, S. Dak., the price of the lands being \$2.50 an acre. Under the terms of the agreement there was \$1,040,000 to be paid. Gentlemen who were Members of the House at the time that agreement came up for consideration will remember that there were objections to the ratification of the agreement, on the theory that the Government was a loser, that it was treating with the Indians for relinquishment of their title, whatever it might be, in the reservation, and then disposing of the land to settlers, and that we were giving the Indians more than we would receive from the settlers. Consequently we adopted at that time a new policy and provided in that bill that instead of paying the Indians the price which had been agreed upon, the price was to be raised somewhat, and as the lands were sold the proceeds were to go to the credit of the Indians. That bill became a law, and those lands were disposed of, and the Indians received \$1,800,000 from the sale, instead of \$1,040,000, which was the consideration they had agreed to receive for the cession that was made at that particular time.

Later, we passed another bill for the cession of a further portion of the Rosebud Reservation, and I being the author of the measure, it occurred to me that perhaps we could get a little more money in selling the land if we should provide for the reserving of some town sites and sell the town sites in town lots, and that we would get more money than we would by disposing of all the land as homesteads, as the 1889 treaty provided. So we provided that there should be certain town sites reserved, and that the proceeds from the sale of town lots should go into the Treasury to the credit of the Indians.

It seemed to me then—and I never have had occasion to change my mind—that under all the circumstances it would be only just, equitable, and right that a portion of the proceeds from the sale of those town sites should be used in the towns for public improvements, and that there should be reserved for school and park and other public purposes not to exceed 10 acres in any one town site. Those provisions were incorporated into that law, and it provided, as I have stated, that 20 per cent of the proceeds from the sale of the town lots should go to the municipality for the construction of schoolhouses, or other public buildings, or for public improvements. Since then this House has passed a bill, which has become a law, providing for the sale of the Fort Berthold Reservation, in North Dakota; also for the sale of Mellette County, in the Rosebud Reservation, in South Dakota, and Bennett County in the Pine Ridge Reservation, in the same State.

I may also say that a bill with a similar provision passed in relation to the opening for sale of some Indian lands in Oklahoma, near Lawton, some years ago. In fact, I think that was the first bill. Now, the law providing for the sale of the Cheyenne and Standing Rock lands in South and North Dakota, which passed in 1908, did not contain this provision as to a reservation for school and public purposes or for 20 per cent of the proceeds to be used by the municipality.

The purpose of this bill is to give to those two towns 5 acres for school and public purposes and 20 per cent of the proceeds, the same as these other towns have received.

I would say that when these two town sites were surveyed and laid out there were reserved, as shown by the plats, a number of acres for school and park purposes, and these reserved lands were so indicated upon the plats or maps of the towns. It was the opinion of the General Land Office that, under the general law, they had the right to reserve the land for those purposes, and the towns have constructed school buildings upon these particular school reservations, and the buildings are there to-day. Now, it seems to me only fair and right, and following

the precedents that have been established in these other reservations, that we ought at least to let them have not to exceed 5 acres of the land. I will say that the bill has the approval of the department, and, personally, I can not see why there can be any objection to it.

Mr. MONDELL. Will the gentleman yield for a question?

Mr. BURKE of South Dakota. Certainly.

Mr. MONDELL. I notice that the proviso of the bill on page 2, after providing that 20 per cent of the sums which are received from the sale of lots shall be used for the construction of schoolhouses and other public buildings, provides that this sum shall be expended by the Secretary of the Interior or under his direction. Does the gentleman think that provision is as wise a one as it would be to provide that this 20 per cent should be turned over to the municipality and the school district, in order that they may use the sums for the building of schoolhouses or making other improvements?

If the gentleman was not listening, I will repeat briefly, and say that the bill provides that the 20 per cent which is to be used for the benefit of the town shall be expended by the Secretary of the Interior in the construction of schoolhouses and other buildings.

It seems to me it would be better to turn the 20 per cent over to the municipality and the school districts, and allow the municipality and the school district to expend the money as they see fit.

Mr. BURKE of South Dakota. It was merely for the purpose of knowing that it is used for that particular purpose. This will have to be expended under the supervision of the Secretary of the Interior. Otherwise it might be used, possibly, if it was turned over without any condition, for any purpose that the municipality might see fit, and the only reason for using that language is to see that the money is used for certain express purposes.

Mr. MONDELL. Is this the language of the other legislation to which the gentleman referred?

Mr. BURKE of South Dakota. I think it is.

Mr. MONDELL. This same matter is under discussion in connection with the town sites on the reclamation projects.

Mr. STEPHENS of Texas. If the gentleman will allow me, page 3 of the House report says:

The fixing of the same limit in this general act will tend to uniformity in legislation, always desirable; will, it is believed, sufficiently provide for the public needs, and will do no injustice to the Indians.

Mr. BURKE of South Dakota. I will say that that letter has reference to a general bill on this subject; the department has recommended general legislation. This bill only provides as to these two town sites and reduces the amount of land to be used for schoolhouses and park purposes to 5 acres instead of 10.

Mr. STEPHENS of Texas. And still it follows closely the language of the proposed general legislation.

Mr. BURKE of South Dakota. Yes; practically the same thing.

Mr. MONDELL. Has the gentleman heard any complaint of the operation of the other legislation that he refers to?

Mr. BURKE of South Dakota. I may say that there has never been any complaint that I have heard of from any source, and especially no complaint from the Indians.

Mr. MONDELL. The parties particularly interested are not the Indians, but the dwellers in the town.

Mr. BURKE of South Dakota. I never have heard any objection from any source whatever.

Mr. MANN. Will the gentleman yield for a question?

Mr. BURKE of South Dakota. Certainly.

Mr. MANN. In relation to the question that the gentleman from Wyoming just asked, the bill seems to require that 20 per cent of the sale be retained and set apart and expended under the direction of the Secretary of the Interior—first, for schoolhouses; second, for other public buildings; and third, for other improvements, which, I assume, might be street paving, market houses, constructing sidewalks, public baths, or anything of that sort. Is the gentleman able to say how much land there is in these town sites that is available for lots?

Mr. BURKE of South Dakota. My recollection is that each of the two town sites consists of 160 acres.

Mr. MANN. How much has been sold?

Mr. BURKE of South Dakota. In one of them, I presume, about a half, and in the other not so much.

Mr. MANN. On the half that has been sold this will lighten their taxes considerably in the way of building schoolhouses. They will not contribute anything toward this; they have purchased their lots. Probably they purchased the most valuable lots of the town. Out of the rest you are to retain 20 per cent. How soon is the rest likely to be sold?

Mr. BURKE of South Dakota. That will depend on the conditions; it is under the supervision of the Secretary of the

Interior, and he will sell them at such times as he thinks is advantageous to the Indians.

Mr. MANN. Does the gentleman think they will be sold in time to build schoolhouses for the benefit of the people that are now there?

Mr. BURKE of South Dakota. My understanding is that schoolhouses are already built.

Mr. MANN. So that it does not require 20 per cent to construct schoolhouses; what other public buildings are there that need to be constructed?

Mr. BURKE of South Dakota. The gentleman lives in a great city where the sale of city lots means usually considerable money. Now, 20 per cent of the sale of all of these town lots in these towns would not mean more than a few thousand dollars.

Mr. MANN. That does not make any difference.

Mr. BURKE of South Dakota. I do not suppose that either one of these towns will have a population exceeding 1,000 or 2,000 people in the next 20 years.

Mr. MANN. If they already have schoolhouses built they will need no other public buildings unless it be a calaboose.

Mr. BURKE of South Dakota. I presume under this law the cost of building the schoolhouses could be paid from this fund.

Mr. MANN. I do not see how they could be paid for from this fund when it says that the Secretary of the Interior shall cause 20 per cent of the net proceeds arising from such sale to be set apart and expended under his direction in the construction of schoolhouses or other public buildings or improvements. I do not see how he could pay debts already incurred for construction; he could not get by me if I was the auditor.

Mr. BURKE of South Dakota. He may use it for other purposes.

Mr. STEPHENS of Texas. The bill says:

He—

The Secretary of the Interior—

shall cause 20 per cent of the net proceeds arising from such sales to be set apart and expended under his direction in the construction of schoolhouses or other public buildings or improvements in the respective town sites in which lots are sold.

Mr. MANN. I have just read that. That does not mean he must pay debts which have already been incurred. It does not say that, whatever the gentleman may have in mind. Suppose some lots are not sold for 20 years, what is this 20 per cent to be used for?

Mr. BURKE of South Dakota. For public purposes.

Mr. MANN. By the Secretary of the Interior?

Mr. BURKE of South Dakota. Under his direction. The Secretary of the Interior might turn the money over to the municipality if, in his judgment, he thought it was wise to do so.

Mr. MANN. I will not say that it could not be done, although I do not see how it could be done under the language which requires the money to be expended in the construction of buildings, and so forth.

Mr. BURKE of South Dakota. I will say to the gentleman that I was endeavoring to absolutely make sure that the money should only be used for the purpose that was contemplated when we passed the law, and therefore I was keeping it under the supervision of the Secretary of the Interior rather than paying the money over to the municipality.

Mr. MANN. The gentleman from South Dakota will understand that I am not criticizing. I am asking for information. I thought possibly the gentleman might know what was done in the case of the Lawton lots. I think that is the only other bill of this kind we have passed.

Mr. FERRIS. They built two schoolhouses.

Mr. MANN. Who built them?

Mr. FERRIS. The Secretary of the Interior sent two men down there from here.

Mr. MANN. What do they do with the money that comes in now?

Mr. FERRIS. It goes into the Indian fund.

Mr. MANN. I am speaking of the 20 per cent; the Secretary of the Interior still retains 20 per cent for public improvements?

Mr. FERRIS. I think he has expended the most of it.

Mr. MANN. He can not expend it before he gets it.

Mr. FERRIS. No; but most of it is paid in.

Mr. MANN. Are the lands all sold?

Mr. FERRIS. Oh, they were sold all at once, at auction.

Mr. MANN. That is not the case here; that is a different situation.

Mr. BURKE of South Dakota. Mr. Chairman, I think it is contemplated in the law opening these lands to settlement that within a certain number of years after the passage of the act all of the land must be sold, including all town lots, and the Secretary of the Interior is required to dispose of the unsold lands and lots to the highest bidder, regardless of price.

Mr. MANN. Mr. Chairman, the gentleman understands, I think, my reason for making these inquiries, so as to bring the matter before the House. This matter has recently been up in the Senate, which body defeated a bill because this provision was in it, and afterwards, on a reconsideration, the gentleman in charge of the bill struck the provision out and the bill passed. The gentleman knows the bill to which I refer—a bill relating to the Standing Rock Indian Reservation—and knows that there is now pending in the other body a general bill providing for this same 20 per cent and also for the school site, and so forth, which has not passed because some objection was made to it.

Mr. BURKE of South Dakota. I understand that there is such a bill pending; yes.

Mr. STEPHENS of Texas. If the gentleman will permit, I will state that the last clause of this bill provides that this money may be expended for such improvements in the respective towns, and so forth, and that would include, as I understand it, the building of bridges, sidewalks, or anything of that sort which would be a charge upon the public.

Mr. MANN. Yes; but who would build them—the Secretary of the Interior?

Mr. STEPHENS of Texas. They would be constructed under the supervision of the Secretary of the Interior.

Mr. BURKE of South Dakota. Mr. Chairman, I wish to say to the gentleman, in regard to the action of the other body, that I am quite sure they did not understand the proposition, and that when they do understand it that body will reverse itself upon this question, upon which it has heretofore voted affirmatively on a number of occasions.

Mr. MANN. Mr. Chairman, I think the gentleman is somewhat in error when he says that the other body did not understand the proposition. Far be it for me to ever assume that the Senate of the United States does not understand every proposition, and I am quite sure that the Senate thoroughly understood the proposition when they voted upon it. Whether they appreciated entirely the position which the gentleman assumes and the necessity for this legislation is another proposition. As I understand the principle of this bill, it is based upon the idea that by setting aside a portion of the town site for school and park purposes, and then providing in advance for a retention of 20 per cent of the receipts of the sale for the building of these public improvements, it is expected that the lots will sell for more than would be received if you took the other course.

Mr. BURKE of South Dakota. That is exactly the proposition; and the theory upon which this provision was incorporated in the first bill that I had to do with was if I owned land myself and was going to dispose of it, and was going to lay out some town sites, as a business proposition it would pay to reserve a limited portion and donate it to the municipality for school and park purposes, and also give the municipality a certain per cent of the proceeds.

Mr. MANN. In these town sites, when they lay them out, do they lay out streets?

Mr. BURKE of South Dakota. Certainly.

Mr. MANN. Well, somebody in some other body may think that that is depriving the Indians of their lands, because nobody pays for the streets.

Mr. BURKE of South Dakota. The gentleman, of course, will take into consideration the fact that the Indians do not own this land. They have only the right of occupancy. Furthermore, the proceeds do not go to the Indians directly, but are simply used by the Government for their support and civilization—

Mr. MANN. For their support and toward their civilization.

Mr. BURKE of South Dakota. The gentleman can construe it any way he desires. In the appropriation bill which the Committee on Indian Affairs has reported we provide that for the support and civilization of these particular Indians the expense shall be paid from the proceeds of the sale of the lands, and if we followed the provisions of the treaty we would dispose of them under the homestead laws entirely and would not have any town sites at all.

Mr. MONDELL. Mr. Chairman, will the gentleman yield?

Mr. BURKE of South Dakota. Certainly.

Mr. MONDELL. Mr. Chairman, I am favorable to the legislation and will vote for it in just the form in which it is reported, but I want to make this observation: It is entirely proper that these towns should have a proportion of the sums received from the sale of the town lots, because if this town site belonged to an individual or a corporation during all of the years during which the unsold lots were lying there they would be paying taxes to the municipal treasury.

Mr. BURKE of South Dakota. That is right.

Mr. MONDELL. And to the treasury of the school district; this 20 per cent of the sum received may be considered in lieu

of taxes, and I think in a majority of cases would not be a sufficient amount to reimburse the municipality for the taxes which it would otherwise receive.

Mr. BURKE of South Dakota. And furthermore, the Indian has the benefit of the schools and pays no taxes for 20 years.

Mr. MONDELL. All very true. So there is no question about the propriety of giving the municipality 20 or 25 per cent of the sums derived from the sale of town lots; but it does seem to me that it would be very much better to give that sum to the municipality and to the school district and allow them to use it in any way they saw fit for municipal or school purposes. Of course they could use it for no other purpose except proper municipal or school purposes.

But if they have the schoolhouses built and want to use the funds as they would use any other fund derived from taxation, to pay school-teachers, I do not see any reason why they should not do so. If they want to grade streets instead of building a city hall I do not see any reason why they should not be permitted to do so; if they want to build bridges within the municipality, why not? We are giving them these moneys in lieu of taxes which they would otherwise receive during the years when the town lots are there unsold, and they ought to have the same right to use those funds as they would have to use other funds they would receive from taxation in any legitimate and proper way. I think they would get more out of it in that way than they would if we left it to the Secretary of the Interior, necessitating the sending out of an agent from the Interior Department to supervise the expenditure at considerable expense, and all that. I believe it would be very much better to turn this over to the school district and municipality.

Mr. FERRIS. Will the gentleman yield?

Mr. MONDELL. I am speaking in the time of the gentleman from South Dakota.

Mr. FERRIS. I trust the gentleman from South Dakota will yield me some time.

Mr. MONDELL. While I am not insistent upon that, I want to call it to the attention of the committee, because the same question will be before us before long in regard to the town sites on the reclamation projects. There we have the same problem. The Reclamation Service is selling town lots slowly, selling only a few lots at a time as there is demand. That means the municipalities have a limited source of income, and they ought to have a portion of the sum received from the sale of town lots, and those sums ought to go to the municipality and the school districts direct.

Mr. MANN. Will the gentleman yield there?

Mr. MONDELL. Yes.

Mr. MANN. In these cases where half the lots have been sold without the 20 per cent being deducted, does not the gentleman think, in fairness, the improvements which are yet to be made out of the 20 per cent which is deducted from future sales should be made so as to give special benefit to the lots which will pay that 20 per cent?

Mr. MONDELL. Well, in theory the gentleman is absolutely right. I doubt if in practice it would not be difficult to carry that out, but I assume if we turn over the money to the municipality the municipality will spend it, as they do their general fund, for the benefit of the municipality.

Mr. MANN. Yes; but not for the benefit of the lots that pay the bill. Would not lots be likely to sell higher, for instance, if they had any bridge or sidewalk if the purchaser understood 20 per cent of the purchase will be used in their part of the town?

Mr. MONDELL. Well, I think that is probably true; but I think it would be just a little difficult to provide for such expenditure, and the gentleman realizes that if this fund goes into the municipal treasury and becomes a part of the general municipal fund, of course all the expenditures which are made will be made for the benefit of the town generally, and therefore the property that has been sold heretofore, as well as lots that will be sold hereafter, will receive the benefit. My view is that the moneys would be more economically expended, and they would be expended for the purposes of more immediate necessity if they were turned over to the municipality to be expended for municipal purposes rather than retained in the hands of the Secretary to be expended under what must of necessity be a more or less expensive supervision.

Mr. MILLER. Mr. Chairman—

The CHAIRMAN. Does the gentleman yield?

Mr. BURKE of South Dakota. Mr. Chairman, I yield to the gentleman from Minnesota to ask a question.

Mr. MILLER. Mr. Chairman, it seems to me that the criticism of the gentleman from Illinois [Mr. MANN] as to the con-

cluding part of the bill is worthy of consideration. The language is:

Twenty per cent of the net proceeds arising from such sales to be set apart and expended under his direction in the construction of schoolhouses and other public buildings or improvements in the respective town sites in which lots are sold.

I have been studying it for some little time, and it seems to me conclusive that the Secretary of the Interior is hereby authorized only to expend money in future construction. I understand from the gentleman from South Dakota that these schoolhouses desired to be built have already been built and it is desired to pay for them. Now, if that is the case, I would suggest, which is a suggestion merely, that there be stricken out the words "under his direction in the construction" and substitute therefor "expended in payment of the cost of constructing schoolhouses." He can pay for the cost of schoolhouses already constructed when he could not go ahead and construct schoolhouses.

Mr. MONDELL. Why not turn it over to the municipalities?

Mr. MILLER. If I may be permitted to answer that, I think there are some very strong reasons why this might be paid over to the municipalities. I think, on the other hand, there are stronger reasons, especially in the present instance, why it should not be. New municipalities are always extravagant if you let them have full sway in the matter of public buildings and improvements. They are inclined to build streets where streets are not needed; they are inclined to pave streets that nobody lives upon. I have myself recently visited cities of considerable importance, cities whose inhabitants are many thousands, that have streets paved 3 miles out into the country.

Mr. MONDELL. Boom towns?

Mr. MILLER. They have been boomed, but the boom did not carry the town out to those regions. It seems to me a wise precaution that this 20 per cent should be retained within the jurisdiction and power of the Secretary of the Interior or some Federal Government official, and that such official should expend it, or see that it is properly expended.

I, for one, think it ought to be almost exclusively used in the construction and equipment of schoolhouses. Why? Because a schoolhouse is the first public building any community ought to have. It is the first public building any community ordinarily does have, excepting, in some instances, a church, the two usually going hand in hand. In these new communities that are inside of the Indian reservations there must be school facilities afforded for the Indian children, and I think we have learned one thing, if not anything else, in relation to the Indian question, and that is that we solve the Indian problem, in part at least, by getting the Indian children to go to school with white children. Therefore in these communities the Indian children ought to be encouraged to go to white schools; facilities ought to be afforded for them to go to white schools; and this, in some measure, is compensation to these communities for the instruction given to these Indian children. I think it proper, therefore, that it should be restricted to schoolhouses; but whether thus restricted or not, it can hardly ever be more than sufficient to pay for these two schoolhouses that have already been built.

Mr. MANN. Mr. Chairman, I think the House ought to be thoroughly informed of the proposition that it is voting upon, because the matter may come up in conference at some time when there is not very much opportunity for discussion.

Senate bill 109 is now pending before the Committee on Indian Affairs of the House. It has not yet been reported. That bill was brought up in the Senate and discussed on the 29th of January. At that time it contained this provision:

And he is hereby authorized to set apart and reserve for school, park, and other public purposes not more than 10 acres in any town site, and patents shall be issued by the Secretary of the Interior for the lands so set apart and reserved for school, park, and other purposes to the municipality legally charged with the care and custody of lands donated for such purposes upon receiving satisfactory evidence that said towns have been duly incorporated.

It also contained this provision:

And he shall cause at least 20 per cent of the net proceeds arising from such sales to be set apart and expended under his direction in the construction of schoolhouses or other public buildings or improvements in the town sites in which such lots are located.

I would be very glad to be able to hear myself.

Mr. STEPHENS of Texas. What bill is the gentleman reading from?

Mr. MANN. Senate bill 109, pending before the Committee on Indian Affairs.

Mr. STEPHENS of Texas. Is the gentleman aware that that is just what is proposed to be done in the pending bill?

Mr. MANN. I am aware of that. I have read what the gentleman from Texas says is the precise language that is in the pending bill. I have read it from Senate bill 109. When that bill was under consideration in the distinguished body at

the other end of the Capitol, after considerable discussion on these two propositions—the discussion being wholly in regard to the two propositions which I have just read, and which are the same as in the pending bill—the bill was placed upon its final passage and defeated, for the reason that it included those two propositions. Subsequently a reconsideration of the bill was had, and on the 1st of February it was amended by striking out of the bill the provisions which I have read, which the gentleman from Texas says are precisely the same as those in the bill now pending in this House.

Mr. MONDELL. Are those the provisions for the 20 per cent to be used by the Secretary for the building of schoolhouses and other buildings?

Mr. MANN. Yes. One of them was for the 20 per cent and the other was for the park lands, school sites, and so forth. That bill has come over to the House and has not yet been reported.

Now, I do not undertake to say that the Senate was right in its contention on this matter. It seems to me quite proper, under the provisions which guard it, that when we authorize the sale of a piece of Indian land as a town site, or any other land, we may properly say that the streets shall be dedicated for public use; that a portion of the land may be reserved for school sites or park purposes, and where it is a new town, the proceeds of a portion of the sales within at least a limited period may be retained for the purpose of building schoolhouses, or a town jail, or something of that sort.

I do not quite understand why we should keep up that proposition and retain 20 per cent of the proceeds which may be collected some time hence unless it is on the principle of recuperating the towns for the lack of collecting taxes against the lands.

Mr. MONDELL. Is not that the only principle upon which we can properly make these payments to the municipality?

Mr. MANN. No. The principle upon which we make these payments is that the land will sell for more, if we reserve a part for a school site and park and dedicate a part of it for a street and build a schoolhouse. We have no right to take the property of the Indians which is not taxed in the end and give it to somebody else because we have not taxed it. We have a right to provide that it shall be taxed. I do not see any right on our part to take the property of the Indians unless it is that the rest will become more valuable and produce more revenue.

But I want the House to be advised of the situation, so that when the Members vote upon this bill they will understand the position here. The Senate took quite an opposite view. If this bill goes to the Senate, with their position on the matter, and we have a bill pending here, where we have not expressed any opinion upon it, and there is another general bill pending, we had better find out, so that everyone in the House or those who are especially interested in the subject, such as the gentlemen here to-day, will know "where they are at."

Mr. MADDEN. Mr. Chairman, will my colleague yield?

Mr. MANN. Certainly.

Mr. MADDEN. The gentleman suggests that there ought to be a time limit beyond which the Government ought not to be allowed to retain the 20 per cent. Is it not customary for them to sell the lots at auction after a given period of time?

Mr. MANN. I do not think so. It has sometimes been done, but not always. Take 160 acres divided up into town lots in a small town, and nobody has any earthly use for those lots in a country town when it is first organized, unless it is a county seat or something of that sort. I am the owner of lots in some small towns myself and have always considered them and still consider them a liability and not an asset.

Mr. HUGHES of New Jersey. Mr. Chairman, I ask unanimous consent to print in the RECORD certain addresses delivered by Gov. Woodrow Wilson, of New Jersey.

Mr. KENDALL. Are they on the question of schoolhouses?

Mr. MANN. He wants to extend the remarks of a schoolmaster.

Mr. MADDEN. Does this have anything to do with the schoolhouses that are proposed to be constructed on these reservations?

Mr. HUGHES of New Jersey. I have not read this bill.

Mr. MADDEN. Has the gentleman read the speeches?

Mr. FINLEY. What is the gentleman's request?

The CHAIRMAN. The gentleman from New Jersey asks unanimous consent to extend his remarks in the RECORD by printing certain speeches referred to in his request. Is there objection?

Mr. CAMPBELL. How many of these speeches are there?

Mr. HUGHES of New Jersey. Three.

Mr. CAMPBELL. Are they all three on the same subject, or do they relate to different matters?

Mr. HUGHES of New Jersey. They relate to different matters.

Mr. MANN. I hope the gentleman from Kansas will not object, because I think the gentleman from New Jersey [Mr. HUGHES] ought to have the opportunity to justify the existence of his candidate for the Presidency after what I put in the RECORD yesterday, which will be very difficult to overcome if he is nominated.

Mr. MADDEN. I shall not object.

Mr. HUGHES of New Jersey. I thank the gentleman.

The CHAIRMAN. Is there objection?

There was no objection.

The speeches referred to are as follows:

ADDRESS BY GOV. WOODROW WILSON AT THE BANQUET OF THE NATIONAL LEAGUE OF COMMISSION MERCHANTS AT THE ASTOR HOTEL, NEW YORK, ON JANUARY 11, 1912.

MR. TOASTMASTER, LADIES AND GENTLEMEN: I find myself embarrassed in view of the fact that your toastmaster did not announce the subject upon which I am to address you, but fortunately it is printed upon your program, namely, "Business and Politics."

There are two reasons why I am embarrassed: One is that there is so much to attract the eye in this audience and the other is that it distracts the thought. I am reminded by contrast of a limerick which one of my daughters introduced to me the other day. It runs:

For beauty I am not a star,
There are others more handsome by far,
But my face, I don't mind it,
For I am behind it,
It's the people in front that I jar.

I hope, in the circumstances, that you will survive the shock. Moreover, the theme is so great that I would not venture to speak of business in the presence of business experts, and the less said about politics the better. To address myself to so great a theme at this time of the evening would show I had audacity, which I assure you I do not possess. I am very much in the position of the old negro who fell asleep in a railway train, and as he slept his head fell back and his mouth was wide open. A fellow traveler happening to have some quinine put it on the darkey's tongue. It was some time before it soaked in, and when he did wake up with the consciousness that something had happened, he became very much excited, and said to the passenger, "Boss, is there a doctor on this train?" The gentleman answered, "I don't know; what do you want a doctor for?" and the negro said, "Boss, I done believe ma gall's busted." I have not the gall to address you on this subject, and then I have thought as I sat here and looked upon this company of business men how few of us realize what business life in America means. It means the constant readjustment to new conditions. America is one of the countries in which business seems almost to have no laws that run from generation to generation, because the organization of business, the form of business, and the objects of business seem to be transformed so rapidly.

You realize, of course, that in something less than two years the routes of trade will probably have altered once for all on this continent. That ditch that is so nearly completed between the Atlantic and Pacific will switch the route of trade around almost as thoroughly as it was switched when the Turks captured Constantinople and blocked the course of the Mediterranean, and sent the venturesome seamen down the coast of Africa to discover a route around the capes. You know at that moment England, which had been at the back of the nations trading with the East, suddenly swung around and found herself occupying a place at the front of the nations, for hardly had those mariners gone down the coast of Africa when other sailors, more venturesome still, looked seaward across the unexplored waters of the open Atlantic, then set out and discovered a new continent, made new territory for the trader, new trade for the politician, and so England, that had been upon the edge of the water, darkened by ignorance, presently found all her skirts flooded with the light of the new continent arising out of the waters of the sea. Something not so great as that, but nevertheless as revolutionary in our trade, is going to happen as soon as the canal is opened. And when you reflect upon the great projects afoot on this continent, the great inland waterways that we have made up our minds to build, you will see that we have intended nothing less than the transformation of our economic life, and with the transformation of our economic life there will necessarily be a vast readjustment.

Your thoughts will have to be very nimble and your plans quickly changed after the year 1913. Are you ready to do it? Do you realize what the future of America is going to be from the point of view of trade? As I sat here to-night I was thinking of you as commission merchants and reflected that most of our science in regard to trade in this country had been a science of omission rather than commission. Most of the things we ought to have done we have not done. You know that the singular thing about America is that with a genius for new things, with inventive genius, with a capacity for organization hardly matched before in the history of the world, we, nevertheless, have drawn our own borders close about us, have made ourselves shut-in patients, have confined our energies to a continent when we might have extended them into a world. We went almost deliberately about the destruction of our own merchant marine. We swept our own flag from the seas, and while we thought that we were a little Nation a hundred years ago, just before the War of 1812, we competed with the greatest nations in the world in the carrying trade as between nations. Now we, practically the greatest Nation in the world, compete with nobody in carrying trade. We retired from the stage upon which we had already made conquest and, turning our eyes upon ourselves, stood willing to compete with no one until we had developed our own resources.

What is the consequence? It is one unparalleled in the history of the world. We wasted our own resources. We have believed that you do not have to husband your resources, that you can just scratch the surface of your mines and then go on to another mine; that you can cut your forests down for bark on the trees in order to make tan bark and then leave the whole noble trees to rot with the wood never used. We have confined ourselves to a sort of prodigal waste, which sooner or later will find us unprepared in the competition with the rest of the world. No man can compete in the great contests of the world

in trade and manufacture who has not learned how to husband his resources and use every scrap of his raw material. We have been a prodigal people and yet have prided ourselves that we have a genius for industry, a genius for spending, if you will, a genius for getting, if you will, but not a genius for the niceties of industry.

Why is it we have never had, even according to our own account, great native literature in America? We have had great writers, great prose writers and great poets, but it is our own complaint that we have never produced a great native literature characteristic of America but have merely carried on and explained the traditions of England. In order to answer that question you have only to look at the progress of American civilization as a whole. You can't have a great work of art if you try to make it in a hurry. No great work of art is made with the flat hand. It is made with the nicety of touch that comes only with pains and with infinite care. Nothing is artistic that is not patiently completed, professionally completed down to its minutest detail. You can not make a great sentence unless you love the cadences of the language, unless you look for those words which will heighten the color, release the light, and mark everything you say with such vividness that men shall keep it forever in their memory. You can not do great things unless you master the natural processes by which they are dominated. The world determines what you are to do; you don't determine what the world is to do. All the conditions are changing. It was just now said very truly in your presence that a man who can not change his mind gives the most capital evidence that the modern world can offer of his profound ignorance, because if your mind don't change while the world is changing, then your mind won't match the world's. If the whole economic civilization is in flux about you and you alone are crystallized and steadfast, then you will either be washed away by the flood or your position will become one in which you are serviceable only to have some worn-out craft moored to to go to rot. A friend of mine was traveling in Florida and was very curious to identify Florida crocodile. He asked a Florida gentleman how he should know one. "Well," said the friend, "if you are going through the swamp and see a brown object in the distance you will know it's either a stump or a crocodile. If it moves it's a stump."

Now, American trade has a good many crocodiles—men to whom a new thing is an incredible thing, an undesirable thing, a thing to be afraid of. If you don't learn by experience, experience will see that you don't have much time to learn anything. Some people think conservatism is to let things alone, but suppose they change overnight so that you can not recognize them? An English writer used this illustration: If you want a white post to remain white, do you let it alone? If you do it won't be a white post long; it will be a black post. You have got to renew that post once every so often if you want to keep it what it was—a white post.

Now, in order to keep our civilization in repair, in order to keep our trade good and to keep our industries vigorous we have got to change them every month of our lives. I am willing to let things alone if you will guarantee that I can go to sleep and be able to recognize the same thing in the morning; but unless you guarantee me that things will not stand still I am not content and want to be part of the proposition to protect the industries of America. Everything depends upon some nice process for which you have to employ experts, and you must look to the scientific schools of the country to enable you to advance a single inch. You can sit in your office and determine what is to be done, but you can not do it. You have got to hire training; you have got to employ knowledge; you have got to give salaries to science in order to accomplish anything in America; and now you are finding, those of you who are manufacturers, that you did not even know how to keep your cost sheets; that you can not tell what a particular division of your business costs you, and whether it pays its own expenses or not; that you have not yet studied those niceties of readjustment, those niceties of management, which mean the difference between big or little profits or no profits at all, and that from this time out you have got to employ those brains which devote themselves to the niceties of detail. That's the future of America, not only so as to these niceties of detail, but the man who produces is going to expect the same things of machinery as of exchange that he finds and establishes in his own factory. In other words, the model man has got to be something more than an expert. I say he has got to be something more than an expert even in American training.

Have you watched the foreign balance sheets? Do you know by what leaps and bounds foreign exports have increased? Do you know that since the Spanish War pushed us out into the political field of the world circumstances have pushed us out into the trade of the world? This trade which we have seemed to despise we are now bound to undertake. Have you noticed the different figures between what has happened in the exports of the natural products of the soil and the exports of our manufactured products? Don't you know that while we used to export a vast amount of grain and feed, the rest of the world is fast approaching the point where we will consume almost all of our own grain and that our exports of foodstuffs are falling off? Now, at the same time our exports of manufactured stuffs are increasing because while we are reaching the limit of productivity of supplying the world in our field, we have exceeded the amount of production in our factories which is necessary for the domestic consumption, and now unless we use the stuff and draw our borders in we must sell our manufactured products to the world. The middleman has to be an expert in the conditions of the world. I wonder how many Americans know what patterns of carpet can be sold in China. The average American salesman, I dare say, will try to ram American patterns down, I was going to say, Chinese's throats. They will try to get rid of all the surplus things suitable for America in countries for which they are not suitable, and it won't go. You must know something more than the geography of the world, you must know something more than establishing foreign lines with commission merchants; you must know the tastes of the civilized world, economic necessities must be learned, or else you will not be serviceable to America. We have ceased to be a provincial Nation. We have got men whose mastery extends to the borders of the civilized world. That's the reason I rejoice in associations like this. Working, each in his little field, staying within his home markets, men do not realize as to the economic readjustments but wonder whether New York is going to take toll of the whole world after the canal is opened; wonder whether New York is going to take toll of all the world after we have threaded this continent with great open waterways, when everything will be reasonably rapid and cheaply transported like the veins in a great vital body.

Now, whatever changes happen, you gentlemen must see them, must act upon them, must be the agents in them. I look upon the young men in this country as the prophets of what is going to happen. Elderly men get in a rut, elderly men refuse to conceive anything new. I once had the painful duty of telling a company of well-dressed people that I understood the object of the university to be to make the young gentlemen of the country as unlike their fathers as possible, by which

I meant no disrespect to the fathers but that by the time a man is old enough to have a son he got so set in his ways that it is not possible to make any change for the rest of his life. We must have elastic, adaptable, malleable, young stuff to meet the exigencies of the changing age. Just as soon as America loses her elasticity, as soon as she loses her audacity and the adaptability of youth, the course of trade will be neglected, the process of our industry will be embarrassed. So we are at, I will not say the parting of the ways; we are at the opening of the ways. Our life is to have new channels, our economic processes are to take on new forms, for I call you to witness, gentlemen, that America up to this point has devoted herself chiefly only to one side of the great commercial and industrial process, America has been the scene of promotion and exploitation. Every kind of industry has been promoted in the technical sense of that word, and every resource of this rich country has been exploited in the literal meaning of that word. We have been promoters and exploiters. Isn't this coming to an end? Haven't most of the big enterprises been suggested and promoted, including some not worth promoting? Haven't we gone just about to the limit of the rough and ready exploitation of the resources of this country?

Now, what are we going to do? We are going to consider, as we are beginning to consider, scientific forms of government, skill, efficiency, economy; these things that do not come with native genius but come by training. It is all very well what you did. We haven't finished anything in America. I hope we haven't finished the governments of our cities; I hope we haven't finished our streets; I hope we haven't finished our work upon our great water courses in which we have dumped all the debris of our civilization and congested them until they run with difficulty, murmuring against us. We have not been careful of anything except to make haste, except to grow fruitless, and now we are paying the penalty. It has become vulgar in the United States to be rich. Some years ago I went to the commencement of a school which was attended, I understood, practically only by the sons of very rich men, because the courses at the school were so conducted that no others could attend. I felt bound to say to these youngsters that I looked upon them with a great deal of pity and sympathy, because in all probability they were foredoomed to obscurity; that the mere possession of wealth did not any longer lead to distinction in the United States; that in order to be distinguished you have to do something and if you were born with wealth the probability was that you would not do anything, and therefore a man born rich in the United States was likely to be born unserviceable and, being unserviceable, was foredoomed to obscurity. Is it not so? Suppose you have a lot of wealth, suppose you have lavished the resources of the country upon your own bank account? Then what are you going to do with your bank account? What are you going to make of this America that you have adorned and petted and upon which you have spent the genius of organization and the energy and eagerness of development? You, gentlemen, are, so to say, the agents of all the distribution and of the readjustment which takes place, at any rate, in a large number of the products of this country. I remember when I was a youngster I was obliged to study the elements of political economy. I was taught that there were several kinds of value—that there was time value, which makes ice very valuable in the summer and coal very valuable in the winter, and that there was place value, and that a thing that was not serviceable in one place because there might be a surplus of it there was very serviceable in another where it was scarce or could not be produced. You are the servants of place value. It is your business to see that things are at the place where they are wanted at the time they are wanted. In that sense I must accuse you of being place hunters.

You are always looking for a market in which to place the product you deal in, and by the same token you must have a wide and general forecast upon the commerce of nations. You must forecast the changes that are going to take place; you must realize just how long a place is going to be the center and just when it is going to stop being the center. I remember a good many years ago I dined with a society in this city to which no one could belong whose ancestors had not lived in New York for, I think, 200 years, and I could not refrain from saying to the gentlemen assembled that I looked upon them with a good deal of curiosity, for while all the rest of America had been moving they had been sitting still for 200 years. Now, I am no prophet, but I am sorry for the man who can not see the visions of our time. If you think you knew American trade by heart last year, within a decade you will be out of business. You have got to know how American trade will be next year and the year after, a whole decade, of which these years are a part. You have got to have vision; you have got to look into the future; you have got to feel the full pulses which are beating in the great round world before you will comprehend the civilization of which you dream, of which you form a part. So this is what I call the statesmanship of business. Statesmanship is merely the organization of the common life in order to conserve the common interest. That is all statesmanship is, and statesmanship of business is organization of business to conserve the economic interest of your generation.

The same Englishman from whom I was just now quoting gives this very interesting definition of a statesman in a self-governing country. He says he is a man of ordinary opinion and extraordinary ability; a man who reflects the opinion of his generation, but has extraordinary ability in giving expression to that opinion. And so I challenge you, if you know what uses to make of your organization, not to suppose that business is going to dwell in your several commission houses. You have got to get limits outside of those houses; you have got to learn not only of your fellow commission merchants, but of men who have been to the ends of the earth, of travelers, scientists, politicians, of men who have dreamed the dreams that constitute the vision that men follow.

Do you know who are the leaders of mankind? The leaders of mankind are those who lift their vision from the dusty road under their feet and look forward, and though they are determined to keep a firm footing upon the road they nevertheless gladden their eyes with the illuminated distance, to those regions which seem to rise and rise, level by level, promising happier days for mankind, easier lives, more sympathy, more cooperation, more perfect mutual understanding, more common trust, more enthusiasm, more partisanship of what is good, more hatred of what is not good, more contempt for shams, more confidence in realities. They will redeem us from our errors and our mistakes, will show us that to open our eyes is to enlarge our trust, and will convince us that to lead men upon a great process of change is to keep open the love in their hearts in order to travel the road of perfection which comes only with applying ourselves to the things that are better; or, better, giving over to forgetfulness the things that are wrong. Why, gentlemen, do you know that the ancients shut themselves in and refused to trade with the rest of the world, for fear that in trading in goods they should also trade in ideas? Men did not admit

foreign merchants to their markets because they said, "these men will contaminate us with foreign ideas," and so they strangled their own development for fear of the invasion of ideas not their own.

I congratulate you, gentlemen, upon being traders in the thought of the world, traders in the hope of the world, full of confidence that as you receive men into your thinking you will establish the supremacy of America as we wish it to be established—not by force of arms, not by the conquest of hope, not by the conquest of aggrandizement, not by conquest, but by the free injection of our enthusiasm, our love of mankind, our confidence in human liberty.

Are not the horizons large? Is not the prospect fair? Is not the trend beautiful when it leads us to these models of human achievement?

ADDRESS OF GOV. WOODROW WILSON AT DETROIT, JANUARY 18, 1912.
RELATED POLICIES.

Gov. Wilson said in part:

A few years ago, a few months ago, it was a matter of common remark that the field of our politics was singularly confused and disordered; party lines everywhere broken or breaking; party labels losing their significance; party combinations threatening to break and re-form themselves. But in recent months the scene has become more ordered and definite. Every careful observer can now perceive that certain great, definite, calculable forces are at work, the character of which is being more and more plainly disclosed, their movement and direction more and more clearly defined.

To many this changing scene has seemed ominous. They have feared that the foundations of our politics were being threatened with disturbance. They have thought that they saw in what was happening about them a peril to business and to all the fixed conditions of our life. Some had even fancied that these conditions had been artificially produced; they have thought that they discovered in them the artful work of demagogues and disturbers of the public peace; of men who wished to produce unsettled conditions and set the various elements of society at loggerheads with one another. They have thought that irresponsible agitators were producing these conditions in order to accomplish their own reckless purposes. But no one who views the scene calmly and in the large, no one who sees it steadily and sees it whole, can really believe that these great, almost universal, movements of opinion have been produced in any such fashion. I do not see how anybody who has really studied and comprehended the situation of the country and the actual conditions of politics can look forward to the outcome with anything but hope and satisfaction.

The great progressive sentiment which now more and more dominates the country and only awaits its opportunity to determine the policies of the Government is not accidental, is not merely a passing phase expressive of the temperament of an eager people. It is a thing that has arisen steadily by natural and inevitable force, like the tides of the ocean.

The most profitable thing that we can do in order to reassure ourselves is to ask why this great body of progressive opinion has grown so strong, why it has spread to almost every part of the country. The facts are unmistakable enough. The history of the present administration has illustrated them at every turn. We have seen an honest and patriotic man in the presidential chair struggling with the rising power, involved in greater and greater difficulties, because he did not understand that power or comprehend the great purposes that lay behind it, and yet unable to curb it and seeming in spite of himself to increase its volume by the very acts attempted to check it. What has happened? What is it that the stand-pat ranks of the Republican Party vaguely battle with? Why is the country attempting to break away from old party formulas and blaze a new path for itself in politics under a changed leadership and by new measures of reform?

Because within less than a generation all the economic conditions of life and business in this country have changed almost beyond recognition, while our politics have all but stood still. There has been much controversy. There has been loud shouting as if upon a field of battle. Hosts have contended with each other, with the wild beating of arms, one against the other, but few definite adjustments of policy to changed conditions have been accomplished. Some measures of reform there have been, but there has been no steady, consistent force to give them their full effect, to guide them, to adapt them to conditions all along the line. It is as if the rising waters of progressive sentiment had gathered deeper and deeper, higher and higher, behind the stand-pat dam. Because no one knew how to release them was to invite destruction. The sum of the matter is that our life has changed and that our policies are belated. Our laws lag almost a generation behind our business conditions and our political exigencies.

Those who insist upon undertaking the adjustment, those who argue that our laws should be brought up to date—to the date marked upon the calendar of our economic advance and change—are called radicals, not because they would change the facts, but because they would adjust the law to the facts. The maladjustment which they point out is so great that men are startled at the picture and think that only extreme and hasty and violent measures may be thought adequate to meet the extraordinary circumstances which "radical" reformers pitilessly point out.

There is going to be no Johnstown flood; the dam is made of good, stubborn masonry, is not going to give suddenly away. It is, on the contrary, going to be gradually replaced by well-considered constructive engineering with new, well-ordered channels, into which the released waters may pass and in which as they run they may be used to turn the machinery of a still greater industrial organization than that which we have so far built up—an organization more justly put together, an organization whose parts shall be assembled and operated in a way more suitable to free opportunity and untrammelled achievement.

While the waters have piled up, the sediment of passion has settled in them; they have grown clearer. We have had time to comprehend and to think. While sentiment has beat against almost insuperable obstacles and has seemed again and again to be baffled by them, we have been obliged to study both the rising forces and the withstanding barriers. We see more, and we see more clearly than we ever did before. We shall now be able to relieve the strain like true and thoughtful engineers. We shall conserve while we readjust.

I think that every candid observer will corroborate this view of the matter. I do not perceive in the United States any dangerous volume of passionate dissatisfaction. It seems to me that the air grows clearer rather than thicker. There is no sign of storm on the horizon, but there are many signs of a hopeful and a better day. Those who once contended that nothing was the matter are now admitting that a great deal is the matter; that much has been done in the world of business and in the money market that ought not to have been done. They are growing willing to discuss the matter, to confer, to admit the necessity

for remedies, and while their temper has changed the temper of reformers has perhaps grown more sober. They are beginning to discuss the practicable means of change in a more direct and businesslike way.

Recent investigations have been of the greatest service. They have disclosed and are disclosing, item by item, just the methods of business which have been most harmful and most unjust. I think they have opened the eyes of the very men who gave the testimony. A system of business and a system of finance have been laid bare which are manifestly inconsistent with the welfare of big business no less than with the welfare of the country at large.

It is evident that while great fortunes have been piled up and a great business development forced the true, permanent, economic interests of the country have not been served. There has been something abnormal about the process.

We see that somewhere near the center of the whole trouble lies the great system of governmental favors, which we call the tariff. Round about the tariff has been built up a body of business undertaking in which control has been too much concentrated. In order to maintain this control it has been necessary to be secure of the patronage of the Government, and so business has gone deep into politics. Legislative action has been controlled by special business interests. Party machinery has been used to serve private purposes and to make sure pecuniary profits. The whole normal process of government has been reversed, and government itself has come to be privately owned. The phrase may be exaggerated, but it is only the brief epitome of a state of affairs the main facts of which are only too plain.

And so progressives are drawing together, not to destroy anything, but to effect a wholesome readjustment, not hastily, not by any too extensive plan which runs beyond what we see and know; but item by item we must set the Government free from private control and set business free from private control, so that the economic courses of our life may run free again, and that with their freedom we may return to individual opportunity and open the gates to fresh, untrammelled achievement.

And the means will not be a doctrinaire program, but common counsel. We must extend the lines of our debate to every class of society. We must by one means or another hold a grand assize again of the whole Nation. We must find spokesmen for every class and interest, and with open mind go step by step toward the consummation we seek.

Surely this is a program to quicken every pulse and to draw all thoughtful, energetic, capable, patriotic men together for a common effort in the service of the country and of humanity. This is the gospel of the progressive.

ADDRESS OF GOV. WOODROW WILSON TO THE GENERAL ASSEMBLY OF VIRGINIA AND THE CITY COUNCIL OF RICHMOND, DELIVERED ON FEBRUARY 1, 1912.

The home-coming of Gov. Wilson to his native State of Virginia was one of the most notable occasions in the history of the old Commonwealth. A Virginian born and educated, he came back at the invitation of the general assembly of the State and the City Council of Richmond and spoke to more than 4,000 people in the city auditorium. The audience numbered, among others, Gov. Mann, Lieut. Gov. Elyson, Speaker Byrd, of the house of delegates, the members of the general assembly, Mayor Richardson, the City Council of Richmond, and distinguished citizens of the State from every section.

The most notable feature of the occasion was the presence of the Wilson Club, of Staunton, the birthplace of Gov. Wilson. They came to Richmond on a special train over 300 strong, and, headed by a band, marched in a body to the Jefferson Hotel, where the governor received and welcomed them.

The Richmond Times-Dispatch said:

"He could have hoped for no happier home-coming. . . . Welcomed to the capital city of his native State as one of the jewels of whom Virginia is justly proud, Gov. Woodrow Wilson, of New Jersey, perhaps the next President of the United States, reported last night to his neighbors back home, in his own words, not about himself, but about the things he had seen while away."

He spoke as follows:

Your excellency, Mr. Speaker, your honor, gentlemen of the General Assembly of Virginia, and of the council of the city of Richmond, ladies and gentlemen: I face this great audience to-night with a mixture of emotions. I am glad to feel like a boy who has come home to report in some degree to his neighbors, not about myself, but about the things that I have seen or tried to see clearly happening in the great communities of which we constitute a part.

I am not going to hold the distinguished gentlemen who have introduced me responsible for the terms in which they have presented me to you. I am ready to believe, if anything should happen to me that is untoward, that they have uttered not a critical judgment, but have spoken according to the dictates of their hearts. They have been welcoming me home—they have not been telling you exactly what I am.

And yet the voice of a friend melts the heart and I, for my part, feel it very difficult here to-night to make an address from which the sentimental emotions that rise in me are left out. I have on my lapel a badge which, if I followed the dictates of good taste, perhaps I should not wear, for it bears my own name; but it was pinned on my coat by one of the delegation from Staunton, my native place [applause], and I know that you will indulge me in the sentiment which has led me to leave it there, not as a token of egotism, but as a token of my appreciation of the welcome which has been extended me.

You have been told to-night that the eyes of the Nation were centered upon me. I hope not. That is very awkward. [Laughter.] I do not like to believe that the eyes of the Nation are centered upon me. I do like to believe that the thoughts of the Nation are centered upon the great questions which I, among many others, have tried honestly and fearlessly to expound [applause], because we are just now seeking to show our devotion, not to persons but to a cause—a fundamental cause, a cause to which the whole history of America has been a commendatory example.

I could not stand before this audience of my one-time neighbors—for there are a great many men behind me, at any rate, if not in front of me, who have known me ever since I was a boy—and try to pose myself as an important figure. They would see through it. [Laughter.] I remember the story of an innocent old woman who went into the side show of a circus and saw, or supposed that she saw, a man read a newspaper through a 2-inch board. She got up in great excitement and said, "Here, let me out of here; this is no place for me to be with these thin things on." [Laughter and applause.] I fear that the disguise of greatness would be too transparent; and yet I do feel that every man should, who believes in the great ideals of this country and in their translation into action, stand up in every company and proclaim the

faith that is in him, so that by common counsel and by common action we may achieve something for this great Nation.

I have heard men complain of the changes of the times. I have heard men counsel that we stand still and do nothing. How futile the counsel is. Do you remember the quaint story of the Scottish Highlander who went into the market at Edinburgh, followed by his dog? He went to a fishmonger's stall and the dog incautiously dropped his tail into a basket of lobsters, and one of the lobsters nipped his tail. Whereupon the dog went yelping down the street, with the lobster bouncing after. The fishmonger said, "Hoot, mon, whussle to your dog." "Hoot," said the Scotchman, "whussle to your lobster." [Laughter and applause.]

Now, if you think some of your leaders are going too fast a pace, don't whistle to them. Whistle to the spirit of the age. Whistle to the questions that have whipped their consciences and dominated their understandings. They can not stop if they are going to keep up with the great transmutations of affairs. For, gentlemen, whether we have realized it or not, we have entered a new age, and I have comforted myself with the thought as I journeyed toward Virginia again, that Virginia had never been daunted by a new age; with however debonaire and young and confident a genius, Virginia led a great Nation and helped to create a great Nation in a new age. [Applause.]

I have heard men say that it was un-American to criticize the institutions we are living under. I wonder if they remember the significance of the American flag—the first insurgent flag that was flung to the breeze—the flag that represented the most colossal "kick" that was ever taken in political transactions; a flag that I can not look at without imagining that it consists of alternate strips of parchment upon which are written the fundamental rights of man, alternating with the streams of blood by which those rights had been vindicated and validated. [Applause.] In the blue sky of the corner there are swung star after star of Commonwealths of free men who were setting up their own homes upon the principles of those vindicated rights.

Do you suppose that I will believe, or that anyone knowing the history of America or the history of Virginia will believe, that it is inconsistent with being an American and a Virginian to propose that you construct liberty for each successive age, and that if necessary you reconstruct liberty for each successive age? If I had happened to get that breath out of my lungs in my absence from the Old Dominion it would enter them again as I came back to her. [Applause.] I have not lost it elsewhere. The wholesome contagion has infected the whole of the great Nation. Do not suppose that the people of New Jersey have not seen visions, and dreamed dreams. Some gentlemen in some initial quarters wanted to suppress the dreams. [Laughter and applause.] It made the sleep of some men, in some quarters, uneasy that they should be haunted by those visions, but they never went out of the thought or the sleepless eyes of those great multitudes of men for whom happiness depends upon freedom, for whom self-respect depend upon freedom and principle, and in New Jersey as everywhere else they have drunk of those fountains which first began to flow in Virginia, those fountains by which we constantly renew our youth, and devote ourselves generation after generation to the preservation of the institutions of America.

I want, if possible, to explain to this great body of thinking persons the age in which we live, as it seems to me to present itself. Why, ladies and gentlemen, in our age every question is new. Every question that faces America is just as new now as were the questions that faced America in 1776. I do not mean that we are upon the verge of a revolution. I do not mean that passion is stirring which will upset the ancient foundations of our political order; but I do mean that life has changed under our very eye, so that what we do will have to be adjusted to almost absolutely new conditions, and I want that you will bear with me to point out just what I mean.

You know that one of the great questions that faces this great country is the question of conservation. Now, just what do you mean by conservation? Do you mean the big thing, or do you mean the little thing? The little thing, though big in itself, but little by comparison, is the renewal of our forests, the protection of our great water powers against further depletion, the safeguarding of our mineral resources against waste and extravagance, the keeping in store as long as may be of those things which can not be renewed, and may even within a generation, some of them, come to the point of exhaustion.

That is the question of conservation as most men discuss it; but is that all? It seems to me that the fundamental question of conservation in America is the conservation of the energy, the elasticity, the hope of the American people. [Applause.] I deal a great deal with friends, for I have had such friends all my life, who are engaged in manufacturing in this country, and almost every one of them will admit that while he studies his machinery, and will dismiss a man who overtaxes the machinery so that its bearings get heated, so that the stress of work is too much for it, so that it is racked and overdone, not a man of them dismisses a superintendent because he puts too great a strain upon the souls and hearts of his employees. [Applause.] We rack and exhaust and reject the man machine, and we honestly, economically, thoughtfully preserve the steel machine; for we can get more men—we have only to beckon to them; the streets are full of them waiting for employment; but we can not, without cost, get a new machine.

Now, that kind of conservation is a great deal more than the question of overstraining the factories. If I knew my business and were a manufacturer, what would I do? I would create such conditions of sanitation, such conditions of life and comfort and health as would keep my employees in the best physical condition, and I would establish such a relationship with them as would make them believe that I was a fellow human being, with a heart under my jacket, and that they were not my tools, but my partners.

Then you would see the gleam in the eye, then you would see that human energy spring into expression which is the only energy which differentiates America from the rest of the world. [Applause.] Men are used everywhere, men are driven under all climes and flags, but we have boasted in America that every man was a free unit of whom we had to be as careful as we would be of ourselves. America's economic supremacy depends upon the moral character and the resilient hopefulness of our workmen. So I say, when you are studying questions of conservation, realize what you have been wasting, the forests, water, minerals, and the hearts and bodies of men. That is the new question of conservation. I say new, because only in our day has the crowding gotten so close and hot that there is no free outlet for men. Don't you remember that until the year 1890, every 10 years when we took the census, we were able to draw a frontier in this country? It is true that in what is called the golden age, 1849, when gold was discovered in California, we sent outposts to the Pacific and settled the farther slope of the Rocky Mountains. But between us and that slope, until 1890, there intervened an unoccupied space where the census map makers could draw a frontier. But when we reached the year 1890 there was no frontier discoverable in America.

What did that mean? That meant that men who found conditions intolerable in crowded America no longer had a place free where they could take up land of their own and start a new hope. That is what that meant, and as America turns upon herself her seething millions and the caldron grows hotter and hotter, is it not the great duty of America to see that her men remain free and happy under the conditions that have now sprung up? It is true that we needed a frontier so much that after the Spanish War we annexed a new frontier some 7,000 miles off in the Pacific. But that is a long cry, and it takes the energy of a very young man to seek that outlet in the somewhat depressing climate of the Philippines.

So we now realize that Americans are not free to release themselves. We have got to live together and be happy in the family. I remember an old judge who was absolutely opposed to divorce, because he said that a man will be restless as long as he knows he can get loose [laughter], but that so soon as it is firmly settled in his mind that he has got to make the best of it, he finds a sudden current of peace and contentment. Now, there is no divorce for us in our American life. We have got to put up with one another, and we have got to see to it that we so regulate and assuage one another that we will not be intolerable to each other. We have got to get a modus vivendi in America for happiness, and that is our new problem. And I call you to witness it is a new problem. America never had to finish anything before; she has been at liberty to do the thing with a broad hand, quickly, improvise something and go on to the next thing; leave all sorts of waste behind her, push on, blaze trails through the forest, beat paths across the prairie. But now we have even to stop and pave our streets; we are just finding that out. I suppose it was good for the digestion to bump over the old cobblestones, but it was not good for trade, and we have got to pull up the cobblestones and make real sidewalks that won't jolt the life out of us. Let these somewhat whimsical comparisons serve to illustrate what I am talking about.

Now, there is another new thing in America, and that is trade. Will you laugh at me and say, "Why, America has been supreme in trade ever since she was created." Has she? We have traded with one another, but we have traded with nobody else in proportions worth mentioning. Yes; we have in grain, in the great foodstuffs, but do you know what is happening? Our foodstuff exports, our grain exports are falling, falling, falling, not because we produce less, but because we need more ourselves. We are getting nearer and nearer to the point where we will ourselves consume all that our farms produce. Then we will not have anything with which to pay our balance, will we? Yes, we will; because while our exports of grain have been falling, our exports of manufactured articles have been increasing by leaps and bounds.

But under what circumstances? Long ago, after we had forgotten the excellent things that the first generation of statesmen had done for us in America, we deliberately throttled the merchant marine of the United States, and now it is so completely throttled that you are more likely to see the flag of the little kingdom of Greece upon the seas than the flag of the United States. And you know that the nation that wants foreign commerce must have the arms of commerce. If she has the ships, her sailors will see to it that her merchants have the markets. I am not arguing this to you, I am telling you, for the facts, if we look but a little ways for them, will absolutely demonstrate this circumstance, that we have more to fear in the competition of England, Germany, and France, because of the multitude of English, French, and German carriers upon the sea than we have to fear from the ingenuity of the English manufacturers or the enterprise of the German merchants.

Anybody who has dealt with railroads knows what I am talking about. Railroads in America have made and unmade cities and communities, have they not? They would do it now if they were not watched by the Interstate Commerce Commission. We are obliging them to work without discrimination now, but they at one time discriminated as they pleased, and they determined where cities were to grow and where cities were to decay.

Very well. The same thing is happening upon the high seas. The foreign carrier can tell you where you can go and where you can not go. He can discriminate against you and in favor of his own merchants and manufacturers, and he will, because he does.

And while all this is going on, and we lack the means, we are fairly bursting our own jacket. We are making more manufactured goods than we can consume ourselves, and every manufacturer is waking up to the fact that if we do not let anybody climb over our tariff wall to get in, he has got to climb to get out; that we have deliberately domesticated ourselves; that we have deliberately cut ourselves off from the currents of trade; that we have deliberately divorced ourselves from world commerce; and now, if we are not going to stifle economically, we have got to find our way out into the great international exchanges of the world. There is a new question.

I was speaking in Boston the other evening at a real-estate exchange, and I asked those gentlemen what is going to keep real-estate values in Boston steady? I asked them if they realized what was likely to happen after the year 1915. You know that in that year it is likely that the great ditch in the Isthmus will be open for commerce. We are not opening it for America, by the way, because we haven't any ships to send through it; we are opening it for England and Germany. [Applause.] We are pouring out American millions in order that German exporters, English exporters, and French exporters may profit by our enterprise; and when that is done, of course something is going to happen to America. I asked those gentlemen in Boston if, after that was done, the arteries of trade in this country would continue to run east and west? Some great arteries are going to open north and south. The great valley of the Mississippi is to be the home of teeming industries and of a ceaseless commerce. And then I wonder sometimes if it will not be colder still in the northeastern section of this country where Boston is situated. Those east winds, of which they are fond, will not bring them increasing commerce, perhaps, but they will hear the throb of that great heart in the center of the continent, which is shifting the center of gravity, which is throwing into different arteries the course of the blood of the great commercial world. Does that strike you as something happening in America that you can not sit still and neglect? Hadn't you better "whussle to the lobster"? Don't whistle to the dog, but whistle to the lobster, if you think it will do any good, but I have never enticed a lobster by whistling.

There is another new question in America, and that is the question of business. Business is in a situation in America that it was never in before; it is in a situation to which we have not adjusted our laws. Our laws are still meant for business done by individuals; they have not been satisfactorily adjusted to business done by great combinations, and we have got to adjust them. I do not say we may or may not, I say we have got to, there is no choice. If your laws do not fit your facts, the facts are not injured, the law is damaged; so much the worse for

the law, because the law, unless I have studied it amiss, is the expression of the facts in legal regulation. Laws have never altered the facts; laws have always necessarily expressed the facts, adjusted interests as they have arisen, and changed to one another.

When before, in the history of America, were the Congress of the United States and the legislature of every State called upon in every session to intervene in the regulation of business? Never before our own age.

Now, why is all this happening? Why has business taken on a new aspect in America? Why does it wear a face with which we are only by degrees becoming familiar? For a very interesting reason. An ever-diminishing circle of men exercise a control in America with which only the Government itself can compete.

I am not one of those ladies and gentlemen, who speak of the interests in big letters as if they were enemies of mankind. I know the natural history of the interests, and they grew just as naturally as an oak grows; some of them grew just as naturally as a weed grows. [Laughter.]

I am not here to enter an indictment against business. No man indicts natural history. No man undertakes to say that the things that have happened by operation of irresistible forces are immoral things, though some men may have made deeply immoral use of them. I am not here to suggest that the automobile be destroyed because some fools take joy rides in it. I want to catch the fools. I am not here, in other words, to suggest that the things that have happened to us must be reversed, and the scroll of time rolled back on itself. To attempt that would be futile and ridiculous. I am here to point out as clearly as I can what I believe to be the facts, and what most of you know to be the facts, because some of you have been considering these things longer than I have, and I have no doubt that you have seen things clearer in 20 years than I have seen them in 20 months. I am not talking about things distant; I am talking about things that I have seen with my eyes and handled with my hands.

Now these things, if you will allow me to express them briefly—and to express them briefly means to express them imperfectly—these things amount to this, that a comparatively small number of men control the raw material of this country; that a comparatively small number of men control the water powers that can be made useful for the economical production of the power to drive our machinery almost entirely; that that same small number of men, by agreements handed around among themselves, control prices, and that that same group of men control the larger credits of the country.

Do you know that nobody can undertake the larger kind of undertakings without their approval and consent? There are very few men who can afford to stand up and tell you that, because there are very few men in my happy condition. I have not any note in bank. [Applause.] I live within my income and I can not be punished for what I say. [Applause.] But I know perfectly well, and I have been told by men who dared not speak above their breaths with regard to it for fear they would be punished, that I could not start a great enterprise in this country that needed a million or more of money to start it unless I made an agreement and combination with certain gentlemen who control the great credits of the country.

Now I am not hot in my mind against these gentlemen. They used the opportunities which we accorded them, and they have got us. Some of them are just as patriotic, just as public spirited, just as honest as any man in America. But when you have got the market in your hand, does honesty oblige you to turn the palm upside down and empty it? If you have got the market in your hand and believe that you understand the interest of the country better than anybody else, is it patriotic to let it go?

I was trying to analyze the other day what a Republican is. [Laughter.] I do not want to say anything about that great body of my fellow countrymen in various parts of America who have formed the bad habit of voting the Republican ticket. They are not the men I am talking about, but the Republican leaders, the men who establish the ideals and policies of that party, how would you describe them? Why, I would say that they are men who actually believe that the only men whose advice it is safe to take with regard to the happiness and prosperity of America are the men who have the biggest material stake in the enterprises of America. They believe, therefore, that America ought to be governed by trustees [applause], and that those trustees are the managers of the oldest and greatest "vested interests" of the country. That is a workable theory, that is a theory that has obtained time out of mind. It happens, though these gentlemen have forgotten it, that America was established to get rid of it, but, having forgotten that, reading only the older books, I dare say, reading back of the birth of America, they say that there are only a few men with grasp enough of affairs and knowledge enough of what are the bases of prosperity to run a big, complicated Government like this.

Now, as a Democrat [applause], I define myself by absolutely protesting against that view of public affairs. I will not live under trustees if I can help it. [Applause.] No group of men less than the majority has a right to tell me how I have got to live in America. I will submit to the majority, because I have been trained to do it, though I may have my private opinion even of the majority; but, being a dyed-in-the-wool Democrat, I am proud to submit my judgment to that majority of my fellow citizens.

I know that there are some gum-shoe politicians in both camps who do not agree with that theory at all. They say, "You need not say much about it out loud, but we have got to run these people; this enterprise of free government has to be personally conducted [applause]; that the people want this or that we do not deny, but they do not know what is good for them."

So there are two theories of trusteeship, a trusteeship of the big interests and a trusteeship of the machine. I do not see my way to subscribe to either kind of trusteeship. Not that I am an insurgent, because I believe in organization; I believe that party success is impossible without organization; but I make this distinction between organization and the machine—organization is a systematic cooperation of men for a common purpose, while the machine is a systematic cooperation of men for a private purpose. [Great applause.] I know what I am talking about, because we have a perfect specimen in New Jersey.

Now I know what supports the machine, because I have seen them eat out of a spoon. It is a golden spoon, and I have seen the nurse that fed them, and I have seen that nurse absolutely impartial as between the Republican machine and the Democratic machine [laughter and applause], and the price of the food, the price of the nutrition, is that the machine will be good; that it will see that nothing is done that will hurt the nurse; that nothing is done which will interfere with the private understanding that is established in the nursery.

Now, this is our problem. We have got to set to work now systematically to conserve every resource and every energy of America. We have got to realize that an absolute readjustment of trade is

necessary, and that that is an irresistible battering-ram that is battering at the wall of the tariff.

The tariff is not the question it was a generation ago. I hear gentlemen make speeches now who do not know that, but it is not. They talk as if it was a question of protecting us from external competition, while internal competition keeps prices down; and I happen to know that there is not any internal competition. [Applause.] And I happen to know that this great, irresistible energy of America is doing more than it can keep within its own shops and limits, and therefore it has got to be released for the commercial conquest of the world. Say what you will, whether you are abstractly for protection or against it, you have got to legislate for the release of the energies of America.

Then, in the next place, there is the whole matter of business adjustment. Our laws are just about a generation belated, as compared with economic conditions not only, but as compared with what other advanced nations have done to bring about adjustment. Progressive America is belated, has lost its leadership in the handsome competition to show the world the way out of its difficulties.

That is the problem, and that is the reason I say that the twentieth century is better worth living in than any century that has turned up in our recollection, and that is the reason I return with confidence to Virginia and say: "You remember that your men saw such an age when this Government was set up; is she daunted now to see another age that calls for constructive statesmanship; has she less vision now; has she lost courage now; has she lost the indomitable integrity now that she had then?" I wonder what will happen when Virginia sees these things with the veil withdrawn from her eyes. She will rejoice as a bridegroom coming out of his chamber; she will say, "Here is an age fit for Virginia again."

Now, what are we going to do about it?

A VOICE. Elect Wilson. [Applause.]

MR. WILSON. I hoped that you would not hear that. What is our problem? First of all, in order to move carefully, we have got to move by standard, have we not? You can not launch out and trust to the currents. You have got to have something to steer by. You have got to know whither you are bound.

You know that curious expression, that very erroneous expression we have, when a man has lost his way in a forest or a desert. We say he has lost himself. Did you ever reflect that that is the only thing he has not lost. He is there, but what is lost is all the rest of the world. If he knew any fixed thing in his neighborhood and knew whether it was east of him, or north of him, or south of him, or west of him, he could steer; but he has lost even the points of the compass. He does not know how he is related to the universe. Now, unless you have a standard to steer by, you are lost; how would you know in which direction to steer, and where you are going? If I want to go in that direction, this way is not my road. I have got to know whither I am bound and what landmarks to guide myself by.

Do we lack landmarks in America after all those ancient principles which we have set up like secret temples in which to go and worship and compose our spirits?

In the first place, we have the standards of liberty and equal opportunity. In the second place, we have this standard that the people are entitled to a government which represents them. [Applause.] And in the third place, they are entitled to government by that government which is in the common interest and not in the interest of special privilege.

Are not these the temples of liberty in which we have worshiped? Will any man be charged justly with trying to upset the institutions of America who works in the spirit of the worship of those principles?

What is liberty? You say of a great locomotive engine that it runs free. What do you mean? You mean that its parts are so assembled and adjusted that friction is reduced to a minimum, and that it has perfect adjustment. What do you mean by saying that a boat sails free? Do you mean that she is independent of the great breath that is in the heavens? Do you not mean that she has accommodated herself with graceful obeisance with the winds? Throw her up in the wind and see her shiver in every stick and stitch of her, while, as a seaman would say, she is held in irons. But let her fall off, let her bow to the majesty of nature, and then she is free in her adjustment. Let these serve as images.

Human freedom consists in perfect adjustment of human interests to one another. The whole problem is a problem of adjustment, reducing the friction; not reducing it by mere lubrication [applause]; not reducing it by merely pouring in the oil of money and persuasion and flattery; but by so adjusting the parts that they love to cooperate, that they never buckle up, that they never grow so hot that we can not move the machine at all without danger. And unless there is this perfect adjustment there will not be given that opportunity without which men can not draw a full breath or live a day without despair. Let any group of men have the right to say to others, "You must come to us before you can do anything," and see how long America will be considered a place worth living in by free men.

Our standards, therefore, are these, and we must fearlessly use them—we must say to ourselves, "We are going to reject everything that does not square with those things."

Now, what is the fact? I am happy to believe that Virginia has so far been spared the mortifying experience that has come upon some other States. A great many of the States of this Union, ladies and gentlemen, have been privately controlled. There has not been an adjustment, there has not been free opportunity, there has not been government that represented the people, there has not been government in the common interests. When changes are proposed in those Commonwealths, do not fall upon those who propose them and say they are changing the character of our Government; or, if you do, admit they are changing it back from what it has become to what it was originally intended to be. [Applause.] No man that I know of and trust; no man that I will consent to consort with, is trying to change anything fundamental in America. But what means have we of change? Suppose that every time you try to change your government, you have the experience that the enterprising people of New Jersey had for 16 years together, when to choose between one ticket and another ticket was to choose between tweedle-dum and tweedle-dee. Suppose that every time public opinion unmistakably expressed itself, something invisible, something intangible, something that you could not get at, intervened between you and the action upon which you had determined, then what image would arise in your mind? That you are disappointed in your institutions as they were established? No. That you are mortified because of the change that has come over your institutions by the extent to which they have been debased.

Now, you have got to choose between one of two things. I never saw this as I see it now until I came into actual, practical contact with the administration of a great State. I thank God that I have learned some-

thing in the last 18 months, and what I have learned is this: That you have got to choose between two courses, either constructive leadership which you will stand behind to the limit, or else a resort direct to the people themselves. There are no other ways.

What does it mean, ladies and gentlemen, that all over the United States people are demanding of their governors and of their President that they take the affairs of those people in their own hands, demanding of them leadership, not satisfied that they are honest, merely; not satisfied with their good intentions, merely, but demanding of them that they shall translate their intentions into such persuasive government that nothing can withstand them as spokesmen of the people? That is what America is demanding.

I want to tell a story, if you will allow me—I have told it very often, but most of you probably have not heard it. While Mr. Roosevelt was President I boarded a train near my home one day and I found one of the gentlemen who were then Senators from New Jersey on the train. I dropped into the seat beside him. I found him in a very bad humor. I said, "Senator, what is the matter?" "Oh," he said, "I wish the Constitution had not given the President the right to send messages to Congress." "Why," I said, "Senator, you are barking up the wrong tree. That is not what is the matter. The trouble is that the President publishes his messages, and if the country happens to agree with him it does not stop to hear what you have to say." The President is the only member of the Government of the United States elected by the whole people of the United States; he is the only one whose utterances go into all the newspapers of the United States; and, inasmuch as he has a universal audience and nobody else has, nobody can answer him; and if he happens to speak the opinion of the country nobody can resist him. [Applause.] America has got the zest for that in its imagination, and it is unquiet if it does not get a President that will do that sort of thing; and I will tell you, having ridden a restive State myself, that the people in most of the States are very uncomfortable and full of protest if their governors do not do it. They do not want their governors to exercise any unconstitutional power; but what is a more constitutional power than the power of public opinion? What is more persuasive and irresistible than the voice of universal conviction? That is the force that can bring back representative government in America where it has been lost. Thank God there are a great many places where it has not been lost. It is a local question; it is a question which each community can settle for itself.

But if you can not get constructive leadership, then what? If every time you try it, somebody defeats the purpose which your leader expresses, what are you going to do about it?

I want to read you a passage from the Virginia Bill of Rights, that immortal document which has been a model for declarations of liberty throughout the rest of the continent:

"That all power is vested in and consequently derived from the people; that magistrates are their trustees and servants, and at all times amenable to them."

Did you ever hear the doctrine put more flatly?

"That government is, or ought to be, instituted for the common benefit, protection, and security of the people of the Nation or community; of all the various modes and forms of government that is the best which is capable of producing the greatest degree of happiness and safety and is the most effectually secured against the danger of maladministration; and, when any government shall be found inadequate or contrary to these purposes a majority of the community hath an indubitable, inalienable, and indefeasible right to reform, alter, or abolish it in such manner as shall be judged most conducive to the public weal."

I have heard that read a score of times on the 4th of July, but I never heard it read where actual measures were being debated. [Applause.] Now, I am willing to come back to Virginia and stand with George Mason on the Bill of Rights. When I do that I have got native soil under my feet, soil more fertile for the growth of liberty than any soil that can be compounded. [Applause.] And I say that if we can not get constructive leadership—and we can if we will—then we have our solution in the Bill of Rights. "A majority of the community hath an indubitable, inalienable, and indefeasible right to reform, alter, or abolish it as may be judged most conducive to the public weal." I do not propose anything of that sort—I do not believe it is necessary—but I do like a gun behind the door. [Applause.] I do like to say to people, "Well, if you can't bring the game down any other way, go and get your gun."

There are wise and unwise ways of shooting. I had rather pepper the animal than kill him; I had rather touch him once than deprive him of vitality. But you can load your gun according to your own taste; you do not have to put buckshot in it, you can put the smallest birdshot in it that you can find, and then at your leisure afterwards pick it out of the hide. But always remember that behind you like a bulwark is that bill of rights that you have the right to any kind of government you please to have. That is the kind of insurgent I am, because all the while I remember the temper of America. I honestly believe that a better Nation, more long enduring, more patiently suffering, more conservative people does not exist upon God's planet. I am not afraid of the American people getting up and humping themselves; I am only afraid they will not; and when I hear of popular vote spoken of as mob government, I feel like telling the man who utters that that he has no right to call himself an American. [Applause.] Just picture to yourselves, ladies and gentlemen, the great voting population of Virginia, from the sea to the far borders in the mountains, going calmly, man by man, to the polls expressing their judgment about public affairs, and ask yourselves if that is your image of a mob.

What is a mob? A mob is a body of men in hot contact with one another, moved by a single, ungovernable passion upon doing a hasty thing that they will regret the next day. Do you see anything resembling a mob in that voting population of the countryside, men tramping over the mountainside, men going to the general store up in the village, men going in little conversing groups to cast their ballots—is that your notion of a mob, or is that your picture of free, self-governing people?

I am not afraid of the judgments so expressed if you give men time to think, if you give them a clear conception of the things they are to vote for; because the deepest conviction and passion of my heart is that the common people, by which I mean all of us, are to be absolutely trusted. [Applause.] The peculiarity of some representatives, particularly of the Republican Party, is that when they talk about the people they obviously do not include themselves. Now if, when you think of the people, you are not thinking about yourself, then you do not belong in America. I, on the other hand, am liberal and generous enough, when I speak of the people, to include them. [Applause.] They do not deserve it, but then I can not, if I am true to my principles, exclude them; they have got to come in. You know that delightful expression Horace Greeley, who was one of the general advocates of a general amnesty to the southern people, made use of in an eager

argument one day. He said, "You know we have got to forgive them, damn them." [Laughter and applause.] That is the only working program. You can not have the people unless you include everybody, and therefore I am ready to admit everybody.

When I look back at the processes of history, when I look back at the genesis of America, I see this written over every page, that the nations are renewed from the bottom, not from the top; that the genius which springs up from the ranks of unknown men is the genius which renews the youth and energy of the people; and in every age of the world, where you stop the courses of the blood from the roots, you injure the great, useful structure to the extent that atrophy, death, and decay are sure to ensue. That is the reason that an hereditary monarchy does not work; that is the reason that an hereditary aristocracy does not work; that is the reason that everything of that sort is full of corruption and ready to decay.

So I say that our challenge of to-day is to include in the partnership all those great bodies of unnamed men who are going to produce our future leaders and renew the future energies of America. And as I confess that, as I confess my belief in the common man, I know what I am saying. The man who is swimming against the stream knows the strength of it. The man who is in the mêlée knows what blows are being struck and what blood is being drawn. The man who is on the make is a judge of what is happening in America, not the man who has made; not the man who has emerged from the flood, not the man who is standing on the bank looking on, but the man who is struggling for his life and for the lives of those who are dearer to him than himself. That is the man whose judgment will tell you what is going on in America, and that is the man by whose judgment I for one wish to be guided [applause], so that as the tasks multiply and the days come when all will seem confusion and dismay we may lift up our eyes to the hills out of these dark valleys where the crags of special privilege overshadow and darken our path, to where the sun gleams through the great passage in the broken cliffs, the sun of God, the sun meant to regenerate men, the sun meant to liberate them from their passion and despair, and to lift us to those uplands which are the promised land of every man who desires liberty and achievement.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to cause to be set apart and reserved for school, park, and other public purposes not more than 5 acres of the lands not heretofore disposed of, within each of the town sites of Timber Lake and Dupree, in that portion of the Cheyenne River and Standing Rock Indian Reservations in the States of South Dakota and North Dakota, authorized to be disposed of under the act of May 29, 1908. Patents shall be issued for the lands so set apart and reserved for school, park, or other public purposes to the said municipalities of Timber Lake and Dupree: *Provided*, That the purchase price of all town lots hereafter sold under the supervision of the Secretary of the Interior in the said town sites of Timber Lake and Dupree shall be paid at such times and in such installments and upon such terms as he may direct, and he shall cause 20 per cent of the net proceeds arising from such sales to be set apart and expended under his direction in the construction of schoolhouses or other public buildings or improvements in the respective town sites in which lots are sold.

Mr. MANN. I move to strike out the last word. I should like to ask the gentleman from South Dakota [Mr. BURKE] whether the existing law provides that the purchase price of town sites shall be paid at such times and in such installments and upon such terms as the Secretary of the Interior may direct, or whether this is a change of the law with reference to that?

Mr. BURKE of South Dakota. In the recent bills that have been passed, my recollection is that we have provided that the sales shall be subject to terms that the Secretary of the Interior may prescribe, on the theory that the lots sell more advantageously if sold on time rather than for cash.

Mr. MANN. Did the original act in this case provide for cash sales?

Mr. BURKE of South Dakota. The original act in regard to the selling of town sites, as I recall it, provided for cash sales, but I am not certain about it. It was passed in the Sixtieth Congress and I was not a Member at that time. Mr. Chairman, in view of what has been said, I offer the amendment which I send to the Clerk's desk.

The Clerk read as follows:

Page 2, line 11, after the word "in," strike out the words "the construction of schoolhouses" and insert in lieu thereof the words "payment of schoolhouses that may have been or may hereafter be constructed."

Mr. MANN. Is it the intention of the gentleman to have this 20 per cent used in payment for existing schoolhouses?

Mr. BURKE of South Dakota. When I introduced the bill I did not take into consideration the fact that the schoolhouses were already constructed. I only offer the amendment at the suggestion of some of the gentlemen who have participated in the debate, who suggested that it might be well to provide that it could be so used in case the schoolhouses have not been paid for. I am not going to insist upon it. Personally I am satisfied with the language of the bill as introduced.

Mr. MANN. Does the gentleman's judgment tell him that we would be justified in devoting the 20 per cent to such a purpose?

Mr. BURKE of South Dakota. I will say to the gentleman frankly that I have not given it any consideration, and perhaps it would be better to withdraw the amendment. I do not care particularly about it myself. I think I will withdraw the amendment.

The CHAIRMAN. If there be no objection the amendment will be withdrawn.

Mr. KENDALL. I want to ask the gentleman from South Dakota if he has given consideration to the suggestion advanced by the gentleman from Wyoming [Mr. MONDELL] as to the propriety of transferring this fund to the local municipality?

Mr. BURKE of South Dakota. I will say to the gentleman that I have given that considerable thought, and have concluded that unless it was left under the supervision of the Secretary of the Interior it is very doubtful if we could secure the legislation at all, because possibly the money might be used for purposes not contemplated by Congress.

Mr. KENDALL. There would be no difficulty in securing the passage of the bill.

Mr. BURKE of South Dakota. There might be difficulty, because bills do not always become laws that pass both Houses of Congress.

Mr. KENDALL. Is there not a substantial depletion of the fund under the system the gentleman proposes, in the way of expenses incurred by the Department of the Interior?

Mr. BURKE of South Dakota. The theory is that this money being taken from the proceeds of the sales of the lots, and the proceeds going indirectly to the Indians, that the Secretary of the Interior ought to supervise that portion of it, as he is the representative of the Indians.

Mr. KENDALL. This experiment has been tested in Oklahoma, as I understand it, and I want to inquire of the gentleman from Oklahoma [Mr. FERRIS] what per cent of the funds derived from the sale of these lands was absorbed in the expenses of the Interior Department?

Mr. FERRIS. If the gentleman will yield to me, I will gladly give him what information I have on the subject. We have had some practical experience with this, and I think it is the best of judgment to let the Secretary of the Interior do it. That does not allow half a dozen divergent interests to pull and haul over the fund, to say in what part of the town it shall be expended, and so forth. The Secretary of the Interior sent a man down there who modestly and unassumingly did a good job of it. The legislation referred to caused lots to bring fully half more than they otherwise would have brought. The auctioneer would say, "So much for the Indians and so much for the Lawton." It helped secure a larger sum for the Indians and left the town with two good schoolhouses. I think it would be very unwise to turn this over to the local community. The department has men who are competent men who will go down there and work in conjunction with the Commercial Club and the city council and do what is right. I do not think there is any objection that will ever come from that method.

Mr. KENDALL. The gentleman from Oklahoma has talked very entertainingly, as he always does, but he has not given us any information as to the per cent of the money that was absorbed by the Interior Department in administration.

Mr. FERRIS. I do not have it in dollars and cents, but it must have been a very small amount. They had but one man who came there and who only remained during the construction. I do not think he fooled away a moment's time, and he went away immediately after the job was completed. I do not think any criticism could be raked up on that question. He left us two nice school buildings, erected at a reasonable price, and there has been no scandal or criticism resulting from it.

Mr. BURKE of South Dakota. There is no amendment pending, Mr. Chairman, and unless somebody offers one I shall move that the committee rise.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word. I am somewhat amazed, Mr. Chairman, at the lack of confidence in the people exhibited by the gentlemen around me.

Mr. MANN. On which side?

Mr. MONDELL. On both sides. Gentlemen seem to think that some one in the Interior Department is more capable of building schoolhouses and bridges and repairing streets in American municipalities than are the people who live in the municipalities. We have heard a great deal of late of "government by the people," and now we have a concrete proposition whether we shall allow the people to govern themselves and to make their own expenditures for schoolhouses, and improvements of roads, and the building of bridges, in their own towns, or whether it shall be left to a bureau here in Washington.

I have no doubt but that the bureau will do the best it can, and I have no doubt but what the operation of the bureau in the Lawton case, referred to, was entirely satisfactory. I want to call the gentleman's attention to the fact that this is a very different case from the case of the Lawton lots. There there was an auction of a large number of lots and a considerable sum of money was secured, which was all to be expended in new buildings. It is entirely possible that it was best to have it expended by the Secretary of the Interior, although, as far as I

am concerned, I am one of those who believe that the good people of Lawton could have spent it just as well as, and probably a little better than, any agent of the Federal Government. I trust the people.

Mr. MANN. But do they trust the gentleman from Wyoming? [Laughter.]

Mr. MONDELL. Some of them must, or I would not be here. I think we can trust the people of these municipalities to expend the small amount they may receive from the sale of the town lots.

Mr. CAMPBELL. Will the gentleman yield?

Mr. MONDELL. I can not; I have but little time. Here are small country towns in which, from time to time in the future, lots will be sold and a few hundred dollars will be realized from the sale of those lots. Twenty per cent of that will be reserved, which may amount to \$150 or \$250, or in the course of years \$500, but according to some gentlemen the people are not competent to expend that princely sum of money, and so we must have an employee of a Federal bureau go out there and tell them where they want their schoolhouses and where they want other public buildings, what roads shall be graded, and what bridges should be built. The employee will, of course, remain during the expenditure of the money, and thus a considerable portion of it will be absorbed in the expense of administration.

The gentleman from Oklahoma thinks that the Interior Department did not absorb a considerable amount of the Lawton fund in administration. Perhaps not, but I think if the gentleman will refresh his memory he will recall that there were cases in Oklahoma where a considerable portion of the sums received was absorbed in administration. The traveling expenses of a representative of the department going from here to South Dakota and back, his necessary residence there for a number of weeks or months while these improvements are going on, will absorb a considerable portion of any returns from the sale of the town lots. It does seem to me that when we are giving these people a small portion of the receipts from the sale of the town lots in their town, as it is proper that we should do, we may very properly turn these sums over to them and allow them to use them as they use their other municipal funds. The gentleman from Minnesota may not trust the people of these small towns in the expenditure of their own money, but I do. I think that the history of small American municipalities at least justify us in trusting the people to expend their own money.

Mr. STEPHENS of Texas. Mr. Chairman, I move that the committee do now rise and report the bill to the House with the recommendation that it do pass.

The motion was agreed to.

Accordingly the committee determined to rise; and the Speaker having resumed the chair, Mr. MORRISON, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 45, affecting the town sites of Timber Lake and Dupree, in South Dakota, and had directed him to report the same back with the recommendation that it do pass.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. STEPHENS of Texas, a motion to reconsider the vote whereby the bill was passed was laid on the table.

CHANGE OF REFERENCE.

By unanimous consent, the Committee on the Judiciary was discharged from further consideration of the bill (H. R. 22339) to regulate the method of directing the work of Government employees, and the same was referred to the Committee on Labor.

WINNEBAGO INDIANS.

Mr. STEPHENS of Texas. Mr. Speaker, I call up the bill (H. R. 18849) for the relief of the Winnebago Indians of Nebraska and Wisconsin, and ask unanimous consent that the bill be considered in the House as in the Committee of the Whole House on the state of the Union.

The SPEAKER. The gentleman from Texas calls up a bill and asks unanimous consent that it be considered in the House as in Committee of the Whole. Is there objection?

Mr. MANN. Mr. Speaker, I think we better go into the committee.

The SPEAKER. The gentleman from Illinois objects. The House will automatically resolve itself into the Committee of the Whole House on the state of the Union, and the gentleman from Mississippi [Mr. STEPHENS] will take the chair.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration

of the bill H. R. 18849, with Mr. STEPHENS of Mississippi in the chair.

Mr. STEPHENS of Texas. Mr. Chairman, I ask unanimous consent to dispense with the first reading of the bill.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. STEPHENS of Texas. Mr. Chairman, this bill has been introduced and reported by the gentleman from Nebraska [Mr. STEPHENS], and I yield the floor to him for an explanation of the bill.

Mr. STEPHENS of Nebraska. Mr. Chairman, this bill simply completes the act that was passed by Congress in 1909 for the capitalization of the Winnebago fund. There are two branches of these Indians—one in Wisconsin and one in Nebraska. From 1864 to 1875 the Interior Department made a mistake in the distribution of the annuities belonging to these two branches of this tribe of Indians. The department paid to the Nebraska Indians the entire annuity. As the result of this error—it was discovered in 1875, I think—it was necessary for the department to withhold each year the sum of \$7,000 out of the annuities due the Winnebago Indians of Nebraska until their debt to the Wisconsin branch was canceled. This was done for a period of years, until the debt was reduced to something like \$41,000. The department now finds itself unable to adjust this indebtedness without further legislation. The department recommended the passage of this bill, and the committee has reported it out. Since the committee reported the bill we have had a communication from the department suggesting an amendment, which I shall offer later. There is nothing to this bill, as I understand it, except giving the Interior Department authority to adjudicate the differences between these two branches of the Winnebago Tribe of Indians. If there are no questions in regard to the matter, I have nothing further to say.

Mr. MANN. Mr. Chairman, I would like to ask the gentleman a question.

Mr. STEPHENS of Nebraska. I yield to the gentleman from Illinois.

Mr. MANN. The bill provides that after ascertaining the fund the Secretary of the Interior may expend said fund—for their benefit, in such manner, including the purchase of lands for said Indians, as he may deem proper, or, in his discretion, to distribute said fund, or any part thereof, per capita among said Indians.

Do we give as broad an authority as that to the Secretary of the Interior in respect to any other Indian fund?

Mr. STEPHENS of Nebraska. I think so. I think that all similar Indian funds are distributed under the direction of the Secretary of the Interior. Especially where the competency of the Indians is questioned.

Mr. MANN. The gentleman may be correct, but that language struck me when I read it as being new—authorizing the Secretary to expend a fund for the benefit of the Indians in such manner as he pleases, absolutely, without any restriction upon his authority, to pay them a part of the money or to pay them all of the money or to buy land for them or to expend it in any way he sees fit. I think it is unusual to give such broad authority to the Secretary in reference to Indian funds.

Mr. STEPHENS of Nebraska. I will say to the gentleman from Illinois that the Interior Department has in charge the expenditure of the annuities of all the Indians that I know anything about, and he expends those annuities according to his discretion; and the Indians in my own State, the Winnebagoes, referred to in this bill, and the Omaha Indians, are classified by the department. A competency commission was appointed, and those Indians are classed in three departments—the incompetents, those who are subject to the supervision of the department, and those who are allowed to expend their funds in the manner they may see fit. Those are the Indians who have been allotted their lands and have title in fee.

Mr. MANN. Mr. Chairman, the gentleman may be correct in the main, but unless my recollection is at fault, which it frequently is, I regard the authority granted here broader than is customary. In appropriation bills we necessarily give a great deal of discretion to the Secretary of the Interior.

It seems to me it is not necessary to generally provide that the Secretary, when he ascertains the funds due to a tribe—and of course that would apply to any funds in the hands of the Treasury in any other case—can expend it as he pleases, purchase land with it, pay them all or a part of it. There seems to be no limitation whatever upon the Secretary of the Interior. If that is the usual language, I have not a word to say about it.

Mr. STEPHENS of Nebraska. That is absolutely the usual thing.

Mr. MANN. I think the gentleman is entirely mistaken about that. I am very confident in respect to that.

Mr. STEPHENS of Nebraska. I do not know what authority I could give other than the statute itself.

Mr. BURKE of South Dakota. Mr. Chairman, will the gentleman yield?

Mr. STEPHENS of Nebraska. I yield to the gentleman.

Mr. BURKE of South Dakota. Mr. Chairman, I will say that it is customary where we make appropriations, for instance, from tribal funds, as we have in several instances in relation to the Kiowa and the Comanche funds—and I think the last appropriation was \$400,000—to place it in the discretion of the Secretary of the Interior. So far as these Indians are concerned, the purpose and intent of the bill leaving it entirely with the Secretary is that this fund will be segregated. Many of these Indians are competent and capable of taking care of what they have, and under the terms of the law the Secretary of the Interior may, if he desires, let them withdraw their portion of the fund, and that which remains will be used for the particular Indian to whom it is credited. In other words, it will be credited equally on a per capita basis.

Mr. MANN. The gentleman thinks that this is a special case?

Mr. BURKE of South Dakota. I consider this a special case, and had I not so considered it would have suggested an amendment. In fact, the matter was discussed in committee, and the view was expressed that it was a considerable sum to give the Secretary discretion to handle, and that perhaps we ought to limit it and provide that he should have one-half of it or one-quarter of it; but I think it would only mean that later we would have to enact this legislation.

And I say further that where the Secretary has had this authority I do not think it has been abused, and I will call the gentleman's attention to a law which passed in 1906, which, in effect, provided that the Secretary of the Interior has authority to remove restrictions from the allotted lands and grant a fee patent, and it was thought that if he could be trusted with that power he certainly can be trusted with the distribution of a fund that does not exceed more than the amount that is involved in this matter—that is, about \$800,000.

Mr. MANN. Nearly \$1,000,000 is involved here.

Mr. BURKE of South Dakota. About \$800,000.

Mr. MANN. About \$1,000,000, I repeat. A little thing like \$100,000—

Mr. BURKE of South Dakota. I call the gentleman's attention again to the fact that a portion of this money—I do not know the per cent, but the gentleman from Nebraska can probably give the information—will be paid out immediately to these Indians who are entirely competent to take care of themselves. The gentleman from Wisconsin can probably give the information relative to the Indians in his State that will receive a part of the money.

Mr. STEPHENS of Nebraska. Mr. Chairman, I yield to the gentleman from Wisconsin [Mr. ESCH].

Mr. ESCH. Mr. Chairman, I wish to state, in this connection, that Congress in 1909 capitalized these Winnebago funds so far as the Nebraska branch was concerned, but that law had a reservation in it to the effect that no allotment of tribal funds should be made to the Wisconsin branch of the tribe until further legislation. This bill is that further legislation. The Nebraska branch is, as a whole, much more prosperous—possibly more intelligent and capable of handling its trust funds—than are the members of the Wisconsin branch. They are rather improvident, and many of them have no homestead. Originally they were allotted upon lands which were so poor that they could not make a livelihood. The purpose of giving the Secretary of the Interior discretion to purchase land I think is very largely with a view to aiding members of the Wisconsin branch, not of the Nebraska branch, the idea being that many of the Wisconsin members of the tribe would not be capable of handling the funds they would receive if those were capitalized; but if the money they were to receive was put into lands they would be given the means of livelihood. I have had many of these members of the Wisconsin branch come to me and state that they desired to use their funds in the purchase of land. This bill would enable them to do that and would make them self-sustaining, and on that account, while the discretion granted here is large, I think it would result beneficially to these Wisconsin members of the tribe. The other powers granted to the Secretary in this bill are no greater than those in the act of 1906, if I remember correctly, which gives the Secretary of the Interior discretion in the payment and distribution of trust funds.

Mr. STEPHENS of Texas. Mr. Chairman, I move that the bill now be read under the five-minute rule.

The CHAIRMAN. The Clerk will read the bill.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Interior is hereby authorized, when the amount of tribal funds due the Winnebagoes in Wisconsin shall have been ascertained, in accordance with the enrollment made by him under the provisions of the act of March 3, 1909 (35 Stat. L., 798), to expend said funds for their benefit in such manner, including the purchase of lands for said Indians, as he may deem proper, or, in his discretion, to distribute said funds, or any part thereof, per capita among said Indians: *Provided*, That in adjusting the present indebtedness of the Nebraska branch of the tribe to the Winnebago branch of Wisconsin the Secretary is hereby authorized to deduct from the share of the trust funds of the Nebraska Winnebagoes such amount as may be found due the said Wisconsin branch and to transfer the amount so deducted to the credit of the Winnebagoes belonging to the Wisconsin branch of the tribe.

Mr. STEPHENS of Nebraska. Mr. Chairman, I desire to offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend by striking out the following:

"That the Secretary of the Interior is hereby authorized, when the amount of tribal funds due the Winnebagoes in Wisconsin shall have been ascertained, in accordance with the enrollment as hereinafter provided, to expend said funds for their benefit in such manner, including the purchase of lands for said Indians, as he may deem proper, or, in his discretion, to distribute said funds, or any part thereof, per capita among said Indians: *Provided*, That the Secretary of the Interior is hereby authorized to adjust the differences, not already provided for by statute, between the two branches of the tribe arising from errors in the payment of annuities, and to settle the same before the final division of the trust funds is made: *Provided further*, That a special census of the two branches of the Winnebago Tribe shall be taken as of June 30, 1912, and that the final division of the capitalized funds of the tribe shall be based upon the number of persons belonging to each branch who are alive on that date."

The question was taken, and the amendment was agreed to.

Mr. STEPHENS of Texas. Mr. Chairman, I move that the committee rise and report the bill and amendment favorably.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. STEPHENS of Mississippi, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 18849, to which one amendment had been made, and had directed him to report the bill as amended to the House with the recommendation that the amendment be agreed to and the bill as amended do pass.

The SPEAKER. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time; was read the third time, and passed.

On motion of Mr. STEPHENS of Texas, his motion to reconsider the vote by which the bill was passed was laid on the table.

DIVISION OF LANDS AND FUNDS OF OSAGE NATION OF INDIANS IN OKLAHOMA.

Mr. STEPHENS of Texas. Mr. Speaker, I desire to call up Union Calendar No. 61, Senate bill No. 2.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

An act (S. 2) supplementary to and amendatory of the act entitled "An act for the division of the lands and funds of the Osage Nation of Indians in Oklahoma," approved June 28, 1906, and for other purposes.

The SPEAKER. The House resolves itself automatically into the Committee of the Whole House on the state of the Union, and the gentleman from Nebraska [Mr. STEPHENS] will take the chair.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of Senate bill No. 2, with Mr. STEPHENS of Nebraska in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the consideration of Senate bill No. 2, which the Clerk will report.

The Clerk read as follows:

An act (S. 2) supplementary to and amendatory of the act entitled "An act for the division of the lands and funds of the Osage Nation of Indians in Oklahoma," approved June 28, 1906, and for other purposes.

Mr. STEPHENS of Texas. Mr. Chairman, I ask unanimous consent that we dispense with the first reading of the bill.

The CHAIRMAN. The gentleman from Texas [Mr. STEPHENS] asks unanimous consent that the first reading of the bill be dispensed with. Is there objection?

Mr. MANN. Reserving the right to object—which I do not intend to do—will the gentleman then move that the committee do rise? There are hardly enough Members here.

Mr. STEPHENS of Texas. I will.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas that the first reading of the bill be dispensed with?

There was no objection.

Mr. STEPHENS of Texas. Now, Mr. Chairman, I move that the committee do rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. STEPHENS of Nebraska, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration Senate bill No. 2, and had come to no resolution thereon.

Mr. STEPHENS of Texas. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 11 minutes p. m.) the House adjourned until to-morrow, Thursday, March 28, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATION.

Under clause 2 of Rule XXIV, a letter from the Acting Secretary of the Treasury, transmitting a communication from the Secretary of the Interior submitting an item for inclusion in the deficiency bill to reimburse exhibitors at Alaska-Yukon-Pacific Exposition, Seattle, Wash., for articles lost from Alaska Building (H. Doc. No. 646), was taken from the Speaker's table, referred to the Committee on Appropriations, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. RAKER, from the Committee on the Public Lands, to which was referred the bill (S. 5718) to authorize the Secretary of the Interior to secure for the United States title to patented lands in the Yosemite National Park, and for other purposes, reported the same with amendment, accompanied by a report (No. 456), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

He also, from the same committee, to which was referred the bill (H. R. 21535) to authorize the Secretary of the Interior to secure for the United States title to patented lands in the Yosemite National Park, and for other purposes, reported the same with amendment, accompanied by a report (No. 457), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. CLAYPOOL, from the Committee on the Public Lands, to which was referred the bill (H. R. 20498) for the relief of certain homesteaders in the State of Nebraska, reported the same with amendment, accompanied by a report (No. 459), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. RODDENBERRY, from the Committee on Public Buildings and Grounds, to which was referred the bill (H. R. 20688) transferring the custody and control of the old post-office building in the city of Charleston, S. C., from the Treasury Department to the Department of Commerce and Labor, reported the same without amendment, accompanied by a report (No. 458), which said bill and report were referred to the House Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. CANNON: A bill (H. R. 22466) providing for the purchase of a painting of Abraham Lincoln; to the Committee on the Library.

By Mr. GREGG of Texas: A bill (H. R. 22467) to establish a marine fish-cultural station in the State of Texas in the vicinity of Galveston; to the Committee on the Merchant Marine and Fisheries.

By Mr. MAGUIRE of Nebraska: A bill (H. R. 22468) to promote the science and practice of forestry by the establishment of the Morton Institution of Agriculture and Forestry as a memorial to the late J. Sterling Morton, former Secretary of Agriculture; to the Committee on Agriculture.

By Mr. MILLER: A bill (H. R. 22469) to provide for the construction of a public building at Anoka, Minn.; to the Committee on Public Buildings and Grounds.

By Mr. STEENERSON: A bill (H. R. 22470) to amend an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911; to the Committee on the Judiciary.

By Mr. BROWN: A bill (H. R. 22471) authorizing the Secretary of War to donate two condemned bronze or brass cannon to the city of Kingwood, W. Va.; to the Committee on Military Affairs.

By Mr. STEPHENS of California: A bill (H. R. 22472) to acquire a site for a public building in the municipal community known as San Pedro, in the city of Los Angeles, Cal.; to the Committee on Public Buildings and Grounds.

By Mr. GOLDFOGLE: A bill (H. R. 22473) to amend section 5 of the act approved June 18, 1878, entitled "An act to organize the Life-Saving Service," as amended by the act approved August 3, 1894; to the Committee on Interstate and Foreign Commerce.

By Mr. RAKER: A bill (H. R. 22474) to establish a bureau of national parks, and for other purposes; to the Committee on the Public Lands.

By Mr. CRAVENS: Resolution (H. Res. 463) providing for an additional clerk to the Committee on Enrolled Bills; to the Committee on Accounts.

By Mr. MARTIN of Colorado: Resolution (H. Res. 464) to investigate the Smelter Trust; to the Committee on Rules.

By Mr. GLASS: Resolution (H. Res. 465) authorizing the payment of expenses incurred by the Committee on Banking and Currency; to the Committee on Accounts.

By Mr. KINKAD of New Jersey: Resolution (H. Res. 466) authorizing the Doorkeeper to employ additional help; to the Committee on Accounts.

By Mr. GRIEST: Joint resolution (H. J. Res. 280) to provide for the printing of 100,000 copies of the special report on "The Road Horse" used in the Rural-Delivery Mail Service; to the Committee on Printing.

By Mr. DALZELL: Joint resolution (H. J. Res. 281) authorizing the Secretary of War to transfer to the Department of the Interior a part of the United States arsenal grounds at Pittsburgh, Pa.; to the Committee on Mines and Mining.

By Mr. THAYER: Memorial of the House of Representatives of the Commonwealth of Massachusetts, protesting against abolishing the United States navy yard in the Charlestown district of Boston; to the Committee on Naval Affairs.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ALLEN: A bill (H. R. 22475) granting a pension to Frances D. Cadamus; to the Committee on Invalid Pensions.

By Mr. BOEHNE: A bill (H. R. 22476) granting an increase of pension to William McDermott; to the Committee on Invalid Pensions.

Also, a bill (H. R. 22477) granting an increase of pension to Samuel A. Reavis; to the Committee on Invalid Pensions.

By Mr. BROWN: A bill (H. R. 22478) granting an increase of pension to Solomon S. Simpkins; to the Committee on Invalid Pensions.

By Mr. CALLAWAY (by request): A bill (H. R. 22479) for the relief of Henry C. Clark; to the Committee on War Claims.

By Mr. CANNON: A bill (H. R. 22480) granting an increase of pension to Jonathan Conner; to the Committee on Invalid Pensions.

By Mr. COX of Ohio: A bill (H. R. 22481) for the relief of the estate of Elijah Abbott, deceased; to the Committee on War Claims.

By Mr. CULLOP: A bill (H. R. 22482) granting an increase of pension to John W. Rollins; to the Committee on Invalid Pensions.

Also, a bill (H. R. 22483) granting an increase of pension to James M. Lewis; to the Committee on Invalid Pensions.

By Mr. DAUGHERTY: A bill (H. R. 22484) granting a pension to Miles R. Sheldon; to the Committee on Invalid Pensions.

Also, a bill (H. R. 22485) granting an increase of pension to James A. Love; to the Committee on Invalid Pensions.

By Mr. DALZELL: A bill (H. R. 22486) to correct the naval record of John Stoddard; to the Committee on Naval Affairs.

By Mr. DIFENDERFER: A bill (H. R. 22487) granting an increase of pension to Alexander Beltz; to the Committee on Invalid Pensions.

By Mr. DONOHUE: A bill (H. R. 22488) for the relief of Kate Cunningham; to the Committee on Claims.

By Mr. DOREMUS: A bill (H. R. 22489) for the relief of Theodore E. Rollett; to the Committee on Claims.

By Mr. FOCHT: A bill (H. R. 22490) granting a pension to Rebecca Miller; to the Committee on Invalid Pensions.

By Mr. FRANCIS: A bill (H. R. 22491) granting an increase of pension to Charles Stetson; to the Committee on Invalid Pensions.

By Mr. HANNA: A bill (H. R. 22492) granting an increase of pension to Oliver D. Ellis; to the Committee on Invalid Pensions.

Also, a bill (H. R. 22493) granting an increase of pension to Ole Hexom, alias Ole H. Olson; to the Committee on Invalid Pensions.

By Mr. HARRIS: A bill (H. R. 22494) granting an increase of pension to William R. Clapp; to the Committee on Invalid Pensions.

By Mr. HAWLEY: A bill (H. R. 22495) granting a pension to Frank Meyer; to the Committee on Invalid Pensions.

By Mr. KONOP: A bill (H. R. 22496) granting an increase of pension to George E. Knowlton; to the Committee on Invalid Pensions.

By Mr. MCCALL: A bill (H. R. 22497) granting a pension to Annie T. Quigley; to the Committee on Pensions.

By Mr. MOORE of Texas: A bill (H. R. 22498) for the relief of the heirs of Franklin Perin, deceased; to the Committee on War Claims.

By Mr. PALMER: A bill (H. R. 22499) for the relief of Patrick O'Connor; to the Committee on Military Affairs.

By Mr. PEPPER: A bill (H. R. 22500) granting a pension to Mary A. Kile; to the Committee on Pensions.

Also, a bill (H. R. 22501) granting an increase of pension to Gottlieb Strahle; to the Committee on Pensions.

Also, a bill (H. R. 22502) granting an increase of pension to Columbus C. Bigbee; to the Committee on Invalid Pensions.

Also, a bill (H. R. 22503) granting an increase of pension to Arabella McElroy; to the Committee on Invalid Pensions.

Also, a bill (H. R. 22504) granting a pension to Amanda Grant; to the Committee on Invalid Pensions.

By Mr. POWERS: A bill (H. R. 22505) to remove the charge of desertion from the military record of Amos Bennett; to the Committee on Military Affairs.

By Mr. RUCKER of Colorado: A bill (H. R. 22506) granting an increase of pension to James Collins; to the Committee on Invalid Pensions.

Also, a bill (H. R. 22507) granting an increase of pension to James H. Shippee; to the Committee on Invalid Pensions.

Also, a bill (H. R. 22508) granting an increase of pension to James E. Siddall; to the Committee on Invalid Pensions.

Also, a bill (H. R. 22509) for the relief of Robert F. Risley; to the Committee on Military Affairs.

By Mr. RUSSELL: A bill (H. R. 22510) granting an increase of pension to John C. Nance; to the Committee on Invalid Pensions.

By Mr. SHACKLEFORD: A bill (H. R. 22511) granting an increase of pension to Joseph H. Reynolds; to the Committee on Invalid Pensions.

By Mr. SHERWOOD: A bill (H. R. 22512) granting an increase of pension to Marion Goodell; to the Committee on Invalid Pensions.

By Mr. TAGGART: A bill (H. R. 22513) granting a pension to Mary H. Hurlbut; to the Committee on Invalid Pensions.

Also, a bill (H. R. 22514) granting an increase of pension to James Corrigan; to the Committee on Invalid Pensions.

Also, a bill (H. R. 22515) to correct the military record of Patrick McGee, alias Patrick Gallagher; to the Committee on Military Affairs.

By Mr. TAYLOR of Ohio: A bill (H. R. 22516) granting a pension to Jennie E. Howell; to the Committee on Invalid Pensions.

By Mr. THAYER: A bill (H. R. 22517) granting a pension to Mary E. Edmunds; to the Committee on Invalid Pensions.

Also, a bill (H. R. 22518) granting an increase of pension to Leander T. Kirby; to the Committee on Invalid Pensions.

By Mr. WICKLIFFE: A bill (H. R. 22519) for the relief of heirs of Sebastian U. D. Schlatre, deceased; to the Committee on War Claims.

By Mr. YOUNG of Michigan: A bill (H. R. 22520) granting a pension to Elizabeth V. Ianson; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Petition of the Presbyterian Church of Delaware Water Gap, Pa., for adoption of House joint resolution 163; to the Committee on the Judiciary.

Also (by request), petition of the legal representatives of the remaining Pokagon Tribe of Pottawatamie Indians, of Michigan and Indiana, in their claim to all rights, title, and interest to the shore, filled-in, and submerged lands, commonly called lake-front lands, of the south part of Lake Michigan; to the Committee on Rivers and Harbors.

By Mr. ASHBROOK: Petition of Arthur Morris and 12 other citizens of Newark, Ohio, protesting against the enactment of

legislation prohibiting the interstate shipment of liquors; to the Committee on the Judiciary.

Also, memorial of the Ohio Bankers' Association, at Columbus, Ohio, favoring the enactment of 1-cent postage; to the Committee on the Post Office and Post Roads.

Also, memorial of Pomona Grange, No. 76, Coshocton County, Ohio, favoring parcel-post service; to the Committee on the Post Office and Post Roads.

By Mr. BOEHNE: Petition of J. E. Williams and other citizens of Gibson County, Ind., in favor of a parcel post; to the Committee on the Post Office and Post Roads.

By Mr. CALDER: Petition of F. L. Rector, of Brooklyn, N. Y., for enactment of the Esch phosphorus bill; to the Committee on Ways and Means.

Also, petition of Central Labor Union of Brooklyn, N. Y., for enactment of House bill 17253; to the Committee on Ways and Means.

Also, petition of the Philadelphia Chamber of Commerce, for passage of House bill 17975; to the Committee on Interstate and Foreign Commerce.

Also, petition of Downing Taylor Co., of Springfield, Mass., for enactment of House bill 4667; to the Committee on Interstate and Foreign Commerce.

Also, petition of Henry M. Leland, of Detroit, Mich., protesting against House bill 19065; to the Committee on Interstate and Foreign Commerce.

Also, petition of National Cloak & Suit Co., of New York City, protesting against House bill 16844; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Maritime Exchange of New York City, for legislation to promote the efficiency of the Public Health and Marine-Hospital Service; to the Committee on Interstate and Foreign Commerce.

Also, memorial of the Maritime Exchange of New York City, indorsing the action of Congress with respect to the battleship *Maine*; to the Committee on Naval Affairs.

Also, petition of Edward McDonald, of Brooklyn, N. Y., for passage of House bill 21530, for the relief of Frank Bowers; to the Committee on Claims.

Also, petition of the Corning (N. Y.) Business Men's Association, for 1-cent letter postage; to the Committee on the Post Office and Post Roads.

Also, petition of the International Reform Bureau (Inc.), for enactment of the Kenyon-Sheppard interstate liquor bill, etc.; to the Committee on the Judiciary.

By Mr. CALLAWAY: Memorial of the Retail Merchants' Association of Cleburne, Tex., protesting against parcel-post legislation; to the Committee on the Post Office and Post Roads.

By Mr. CANNON: Petition of J. R. Trump, G. W. Baker, P. O. Hasten, George Leasure, and sundry other citizens of Orange Township, Clark County, Ill., praying for the enactment of proposed parcel-post legislation; to the Committee on the Post Office and Post Roads.

Also, petition of Harry L. Clark, B. L. Steward, Frank M. Reed, and sundry other citizens of Danville, Ill., praying for the enactment of House bill No. 16313, providing for the erection of an American Indian memorial and museum building at Washington, D. C.; to the Committee on Public Buildings and Grounds.

Also, petitions of Edward Methe and sundry other citizens, of Danville, Ill.; A. H. Davis and sundry citizens, of Danville, Ill.; George W. Davis and sundry other citizens, of Danville, Ill.; and William J. Irwin and sundry other citizens, of Danville, Ill., praying for the enactment of legislation to provide for the building of one battleship in a Government navy yard; to the Committee on Naval Affairs.

Also, petition of the Hub Mercantile Co., Ed Cornelius, W. H. Elliott, and sundry other citizens, of Georgetown, Ill., and of J. G. Schosser and sundry other citizens, of Essex, Ill., protesting against the enactment of proposed parcel-post legislation; to the Committee on the Post Office and Post Roads.

Also, petition of Edward Methe and sundry other citizens, of Danville, Ill., and of S. F. Leonard and sundry other citizens, of Danville, Ill., praying for the enactment of old-age pension legislation; to the Committee on Pensions.

By Mr. DANIEL A. DRISCOLL: Memorial of the California Club of California, urging a special appropriation for enforcing the white-slave traffic act; to the Committee on Appropriations.

Also, petition of the American Antitrust League, for legislation extending the arbitration act to the coal industry, etc.; to the Committee on the Judiciary.

Also, petition of the Law and Order Union of New York State, against the proposed income-tax amendment to the Constitution; to the Committee on the Judiciary.

Also, petition of John C. Harrington, of Buffalo, N. Y., for enactment of House bill 20595, amending the copyright act of 1909; to the Committee on Patents.

Also, petition of the Beardstown (Ill.) Chamber of Commerce, protesting against granting permit to increase the flow of waters from Lake Michigan to the Illinois River; to the Committee on Rivers and Harbors.

By Mr. DYER: Papers to accompany House bills 10651, 12754, and 13711; to the Committee on Pensions.

Also, papers to accompany House bill 21843; to the Committee on Invalid Pensions.

Also, papers to accompany House bill 2906; to the Committee on Military Affairs.

Also, petition of the Goodyear Tire & Rubber Co., for construction of a Lincoln memorial road from Washington to Gettysburg; to the Committee on the Library.

Also, petition of H. E. Wills, joint national legislative representative Brotherhood of Locomotive Engineers, Order of Railway Conductors, and Brotherhood of Railway Trainmen, for enactment of Senate bill 5382 and House bill 20487; to the Committee on the Judiciary.

Also, petition of Camp No. 3, Department of the District of Columbia, United Spanish War Veterans, urging passage of Senate bill 5813 and House bill 21771; to the Committee on Reform in the Civil Service.

By Mr. ESCH: Memorial of the American Antitrust League, indorsing the Lee bill to extend the Federal arbitration act to the coal industry, etc.; to the Committee on Interstate and Foreign Commerce.

Also, petition of shoe merchants of Eau Claire, Wis., opposing House bill 16844; to the Committee on Interstate and Foreign Commerce.

Also, petition of D. L. Buckholz and 27 other dairymen, of Kendall, Wis., opposing the Lever oleomargarine bill; to the Committee on Agriculture.

By Mr. FITZGERALD: Petition of United Harbor, No. 1, American Association of Masters, Mates, and Pilots, for legislation to promote the efficiency of the Public Health and Marine-Hospital Service; to the Committee on Interstate and Foreign Commerce.

Also, petition of Roxbury Chapter, Massachusetts Society, Sons of the American Revolution, indorsing Senate bill 271 and House bill 19641; to the Committee on Appropriations.

Also, petition of Naval Camp, No. 49, of the United Spanish War Veterans, of Brooklyn, N. Y., for enactment of House bill 17470; to the Committee on Pensions.

Also, memorials of the Baltimore (Md.) Chamber of Commerce and board of directors of National Association of Manufacturers of the United States, protesting against reducing the annual appropriation for the Diplomatic and Consular Service of the United States; to the Committee on Foreign Affairs.

Also, petitions of the Legislative League of New York Woman Suffrage Party; Seventeenth Assembly District Club, of New York City; New York State Woman Suffrage Association; Woman Suffrage Study Club, of New York City; and Boston Equal Suffrage Association for Good Government, for a special appropriation for enforcing the white-slave traffic act; to the Committee on Appropriations.

Also, memorial of board of directors, Philadelphia Bourse, for continuance of the Tariff Board; to the Committee on Ways and Means.

Also, memorial of the Chamber of Commerce and Manufacturers' Club of Buffalo, N. Y., relative to Fifth International Congress of Chambers of Commerce; to the Committee on Foreign Affairs.

Also, memorial of New York State Assembly, for improvement of Lake Champlain Inlet; to the Committee on Interstate and Foreign Commerce.

Also, petition of Association for Prevention of Tuberculosis, of the District of Columbia, for protection of public health against the bovine source of human tuberculosis and for the conservation of food-producing animals; to the Committee on Agriculture.

Also, petition of the California Club, of California, protesting against reducing appropriation for the San Francisco Mint; to the Committee on Appropriations.

By Mr. FORNES: Petition of Dwight Braman, president of the Law and Order Union, of New York State, protesting against the proposed income-tax amendment to the Constitution; to the Committee on the Judiciary.

By Mr. FRANCIS: Petition of Epworth League of the Methodist Episcopal Church of Beallsville, Ohio, for passage of the Kenyon-Sheppard interstate liquor bill; to the Committee on the Judiciary.

By Mr. FULLER: Petition of George P. Blow, president of the La Salle Commercial Association, and of Thomas F. Doyle, mayor of La Salle, Ill., in favor of an additional appropriation of \$15,000 for construction of the Federal building at La Salle, Ill.; to the Committee on Public Buildings and Grounds.

Also, petition of California Club, of San Francisco, Cal., favoring a sufficient appropriation to insure the enforcement of the white-slave law, etc.; to the Committee on Appropriations.

Also, petition of O. B. Brouse, of Rockford, Ill., favoring the abolition of the Court of Commerce; to the Committee on Interstate and Foreign Commerce.

Also, petition of B. C. Strout, of Gardner, Ill., against parcel-post legislation until after an investigation and report by an impartial commission; to the Committee on the Post Office and Post Roads.

Also, petition of Centerville Grange, of Rockford, Ill., against the passage of the Lever bill, relating to the removal of the tax on uncolored oleomargarine; to the Committee on Agriculture.

Also, petition of H. R. Puterbaugh, of Belvidere, Ill., favoring a parcel post; to the Committee on the Post Office and Post Roads.

By Mr. HANNA: Petition of citizens of Adams County, N. Dak., for parcel-post legislation; to the Committee on the Post Office and Post Roads.

Also, petition of citizens of Sheyenne, N. Dak., protesting against parcel-post legislation; to the Committee on the Post Office and Post Roads.

Also, petition of Roy Plaggemans, of Knusiver, N. Dak., asking that the duties on raw and refined sugars be reduced; to the Committee on Ways and Means.

Also, petition of the Presbyterian and Methodist congregations of Walhalla, N. Dak., for enactment of the Kenyon-Sheppard interstate liquor bill; to the Committee on the Judiciary.

Also, petition of a Catholic society of Bergen, N. Dak., in regard to measures relating to Catholic Indian mission interests; to the Committee on Indian Affairs.

By Mr. HENRY of Connecticut: Petition of the Woman's Christian Temperance Union of Hartford, Conn., for passage of the Kenyon-Sheppard interstate liquor bill; to the Committee on the Judiciary.

By Mr. HIGGINS: Petition of the Woman's Christian Temperance Union of Hartford, Conn., for passage of Kenyon-Sheppard interstate liquor bill; to the Committee on the Judiciary.

By Mr. HOUSTON: Papers to accompany bill for the relief of John W. Vandergriff (H. R. 21563); to the Committee on Invalid Pensions.

By Mr. HOWELL: Petitions of citizens of the State of Utah, for enactment of House bill 20595, amending the copyright act of 1909; to the Committee on Patents.

By Mr. KAHN: Petition of United Garment Workers, Local No. 131, San Francisco, Cal., for building battleships in a Government navy yard; to the Committee on Naval Affairs.

Also, petitions of the Woman's Christian Temperance Union and Presbyterian Ministers' Association of San Francisco, Cal., for passage of the Kenyon-Sheppard interstate liquor bill; to the Committee on the Judiciary.

Also, petition of Grape Growers' Association of San Francisco, Cal., in opposition to the Kenyon interstate liquor bill; to the Committee on the Judiciary.

Also, petitions of S. L. Bernstein and Griffin & Skelley Co., of San Francisco, Cal., for parcel-post legislation; to the Committee on the Post Office and Post Roads.

Also, petitions of Aron & Alexander (Inc.) and others, of Arroyo Grande, and Levi Strauss & Co., of San Francisco, Cal., protesting against parcel-post legislation; to the Committee on the Post Office and Post Roads.

Also, petitions of residents of San Francisco, Cal., for enactment of House bill 20595, amending the copyright act of 1909; to the Committee on Patents.

Also, petitions of the California Club of California, the California Development Board, and the North Beach Promotion Association, of San Francisco, Cal., protesting against changing the San Francisco Mint to an assay office; to the Committee on Coinage, Weights, and Measures.

Also, petition of Dunham, Carrigan & Hayden Co., of San Francisco, Cal., protesting against House bill 16844; to the Committee on Interstate and Foreign Commerce.

Also, petitions of Railroad Committee of California and the San Francisco (Cal.) Chamber of Commerce, for barring from the Panama Canal railroad owned or controlled ships; to the Committee on Interstate and Foreign Commerce.

Also, petitions of California State Mining Bureau, A. A. Hanks, and others, in opposition to House bill 17033; to the Committee on Mines and Mining.

Also, petition of Associated Charities of San Francisco, Cal., for establishing a children's bureau; to the Committee on Labor.

Also, petition of the International Association of Machinists of San Francisco, Cal., opposing the so-called Taylor system of shop management; to the Committee on Labor.

Also, petition of United Garment Workers' Union, No. 131, of San Francisco, Cal., in favor of House bill 20423; to the Committee on the Judiciary.

Also, petition of Lachman & Jacobi, of San Francisco, Cal., opposing House bill 16214; to the Committee on the Judiciary.

Also, petition of San Francisco (Cal.) Center of the California Civic League, for appropriation to enforce the white-slave traffic act; to the Committee on Appropriations.

Also, petition of the Chamber of Commerce of San Francisco, Cal., opposing reduction in the duty on olive oil; to the Committee on Ways and Means.

Also, petition of Nelson A. Miles Camp, No. 10, United Spanish War Veterans, of San Francisco, Cal., for enactment of House bill 17470; to the Committee on Pensions.

Also, memorial of Labor Council of San Francisco, Cal., relative to conditions at Lawrence, Mass.; to the Committee on Rules.

By Mr. LEE of Pennsylvania: Petitions of citizens of the State of Pennsylvania, for construction of one battleship in a Government navy yard; to the Committee on Naval Affairs.

By Mr. McHENRY: Petition of Grange No. 1081, Patrons of Husbandry, for parcel-post legislation; to the Committee on the Post Office and Post Roads.

By Mr. McKINNEY: Petition of residents of Colchester, Ill., for parcel-post legislation; to the Committee on the Post Office and Post Roads.

Also, petition of residents of Rock Island and Moline, Ill., for the construction of one battleship in a Government navy yard; to the Committee on Naval Affairs.

By Mr. McKINLEY: Petition of the First Baptist Church of Urbana, Ill., for enactment of Senate bill 5546 and House bill 21094, to create an industrial commission; to the Committee on Rules.

By Mr. McMORRAN: Petitions of Snover Grange, No. 853, Sanilac County, Mich., and National Dairy Union, opposing legislation that would remove the color line between honest oleomargarine and counterfeit butter; to the Committee on Agriculture.

Also, petition of Snover Grange, No. 853, Sanilac County, Mich., favoring parcel-post legislation; to the Committee on the Post Office and Post Roads.

By Mr. PALMER: Petition of the Walnut Street Presbyterian Church, of Bath, Pa., for passage of Kenyon-Sheppard interstate liquor bill; to the Committee on the Judiciary.

By Mr. RAINEY: Petition of R. B. Stickley and other citizens of Jacksonville, Ill., for building of battleships in Government navy yards; to the Committee on Naval Affairs.

By Mr. RAKER: Petition of Corcoran Lumber Co., of Corcoran, Cal., protesting against parcel-post legislation; to the Committee on the Post Office and Post Roads.

Also, petition of California State Veterinary Medical Association, for enactment of House bill 16343; to the Committee on Military Affairs.

By Mr. REILLY: Petition of Grange No. 105, Patrons of Husbandry, for parcel-post legislation; to the Committee on the Post Office and Post Roads.

Also, memorial of Rhode Island Business Men's Association, for enactment of House bill 17936; to the Committee on Coinage, Weights, and Measures.

Also, memorial of the American Anti-Trust League, for legislation to extend the Federal arbitration act to the coal industry, etc.; to the Committee on the Judiciary.

By Mr. RUCKER of Colorado: Petition of J. D. Cohen and others, of Pueblo, Colo., for the building of one battleship in the New York Navy Yard; to the Committee on Naval Affairs.

By Mr. SHACKLEFORD: Petition of Thomas Holschneider, of Jefferson City, Mo., for enactment of House bill 20595, amending the copyright act of 1909; to the Committee on Patents.

By Mr. SULZER: Petitions of Cigar Makers' Joint Unions of Greater New York, for enactment of House bill 17253; to the Committee on Ways and Means.

By Mr. TILSON: Petition of the International Reform Bureau (Inc.), for enactment of Kenyon-Sheppard interstate liquor bill, etc.; to the Committee on the Judiciary.

Also, petitions of Granges Nos. 1 and 11, Patrons of Husbandry, of Connecticut, for parcel-post legislation; to the Committee on the Post Office and Post Roads.

By Mr. TOWNER: Petition of citizens of Creston, Union County, Iowa, for passage of Kenyon-Sheppard interstate-commerce liquor bill; to the Committee on the Judiciary.

By Mr. UNDERHILL: Petition of the Methodist Episcopal Church of Tyrone, N. Y., for passage of Kenyon-Sheppard interstate liquor bill; to the Committee on the Judiciary.

Also, petition of Grange No. 871, Patrons of Husbandry, for parcel-post legislation, etc.; to the Committee on the Post Office and Post Roads.

Also, memorial of the Los Angeles (Cal.) Chamber of Commerce, relative to Panama Canal tolls; to the Committee on Interstate and Foreign Commerce.

Also, memorial of board of directors of the Maritime Association of the Port of New York, for establishment of marine schools; to the Committee on the Merchant Marine and Fisheries.

Also, petition of residents of Hornell, N. Y., against restoration of the Army canteen; to the Committee on Military Affairs.

By Mr. WILLIS: Papers to accompany bill for the relief of George W. Williams (H. R. 22464); to the Committee on Invalid Pensions.

By Mr. WILSON of New York: Petition of the Twenty-eighth Ward Taxpayers' Protective Association of Brooklyn, N. Y., for the building of battleships at the Brooklyn Navy Yard; to the Committee on Naval Affairs.

Also, petition of the board of directors of the Maritime Association of the Port of New York, for establishment of marine schools; to the Committee on the Merchant Marine and Fisheries.

SENATE.

THURSDAY, March 28, 1912.

The Senate met at 2 o'clock p. m.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Secretary proceeded to read the Journal of the proceedings of the last legislative day, Monday, March 25, when, on request of Mr. BRANDEGEE and by unanimous consent, the further reading was dispensed with and the Journal was approved.

MOTOR AND OTHER VEHICLES IN GOVERNMENT SERVICE.

The VICE PRESIDENT laid before the Senate a communication from the Civil Service Commission, stating, in response to a resolution of the 25th instant, that, relative to the use of motor vehicles, etc., by that commission, it has in use no such vehicles as are enumerated in the resolution, which was referred to the Committee on Appropriations and ordered to be printed (S. Doc. No. 471).

He also laid before the Senate a communication from the Interstate Commerce Commission, stating, in response to a resolution of the 25th instant, that the Interstate Commerce Commission does not own nor does it maintain at Government expense any carriage, vehicle, motor cycle, motor vehicle, or automobile, which was referred to the Committee on Appropriations and ordered to be printed (S. Doc. No. 474).

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, announced that the House had passed the bill (S. 3686) authorizing the Secretary of the Interior to permit the Missouri, Kansas & Texas Coal Co. and the Eastern Coal & Mining Co. to exchange certain lands embraced within their existing coal leases in the Choctaw and Chickasaw Nation for other lands within said nation, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the bill (S. 3367) to amend section 2291 and section 2297 of the Revised Statutes of the United States relating to homesteads with an amendment in the nature of a substitute, asks a conference with the Senate on the bill and amendment, and had appointed Mr. FERRIS, Mr. TAYLOR of Colorado, and Mr. MONDELL managers at the conference on the part of the House.

The message further announced that the House had passed a bill (H. R. 45) affecting the town sites of Timber Lake and Dupree in South Dakota, in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H. J. Res. 232) extending the operations of the act for the control and regulation of the waters of Niagara River, for the preservation of Niagara Falls, and for other purposes.

THE WATERS OF NIAGARA RIVER.

Mr. BURTON submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H. J. Res. 232) extending the operations of the act for the control and regulation of the waters of Niagara River, for the preservation of Niagara Falls, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment as follows: To insert after the word "hereby," in line 4 of the resolution, the words "reenacted and"; and to strike out, in lines 5 and 6 of the resolution, the words "May 1, 1912," and insert in lieu thereof the words "March 4, 1913," so that the resolution shall read as follows:

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of the aforesaid act be, and they are hereby, reenacted and extended from March 1, 1912, being the date of the expiration of the said act, to March 4, 1913."

And the Senate agree to the same.

That the House concur in the amendments of the Senate numbered 2 and 3 to the preamble, viz: By striking out the word "expired," before the word "March," and inserting in lieu thereof the words "and further extended to"; and after the words "August 22, 1911," inserting the words "expires March 1, 1912," so that the preamble shall read:

"Whereas the provisions of the act entitled 'An act for the control and regulation of the waters of Niagara River, for the preservation of Niagara Falls, and for other purposes,' approved June 29, 1906, and extended to June 29, 1911, by joint resolution (Public resolution No. 56), and further extended to March 1, 1912, by joint resolution (Public resolution No. 9), approved August 22, 1911, expires March 1, 1912."

And the Senate agree to the same.

THEODORE E. BURTON,
ELIHU ROOT,
A. O. BACON,

Managers on the part of the Senate.

WM. SULZER,
HENRY D. FLOOD,

Managers on the part of the House.

Mr. BURTON. Mr. President, I desire briefly to explain this conference report.

It provides for the extension of a statute passed in 1906 relating to Niagara Falls. This statute has been twice extended, and now for the third time it is proposed to continue its life until the expiration of the present Congress, March 4, 1913.

The original act asserted the jurisdiction of the United States over Niagara River and contained provisions relating to its navigable quality, its integrity as a boundary stream, and the scenic beauty of Niagara Falls. The original act permitted the diversion of 15,600 cubic feet per second on the American side, or side of the United States, and as the diversion of water in Canada afforded a serious threat of interference with the stream and the beauty of the Falls, the quantity of electrical power which could be imported from Canada was limited to 160,000 horsepower.

There is a general impression that a large amount of power would be imported from Canada except for this act. Such is not the case. As already stated, the quantity allowed to be brought into the United States from Canada is 160,000 horsepower. The present amount brought in is divided between four companies—the Ontario Power Co., approximately 60,000 horsepower; the Canadian Niagara Power Co., 52,500 horsepower; the Electrical Development Co. of Ontario, 12,500; and the International Railway, 1,500, making in all 116,500 horsepower. So there is a further amount of 43,500 horsepower which could be imported into the United States under this act which is continued.

I say this, Mr. President, to meet a prevalent objection that divers communities and enterprises are precluded from the use of electrical energy and that the present act in some way aids monopoly. It does nothing of the kind, because there is still a margin of over 40,000 horsepower which can be admitted under the present act.

There is one other subject to be considered in this connection. The total quantity which could be imported under franchises granted in Canada, which provide that only half that which is generated can be sent out of that country, would not exceed 200,000 horsepower, and as the installations are not complete